

Please contact: Access to Information Team

Email: MLCSU.FOITeam@nhs.net

Direct tel: 01782 872648

Chorley House
Lancashire Business Park
Centurion Way
Leyland
PR26 6TT

Tel: 01772 214232
www.lancashireandsouthcumbria.icb.nhs.uk

1 September 2023

Dear

Re: Your request for information under the Freedom of Information Act 2000
Ref no: FOI-3311-LSC

Thank you for your request dated 20 June 2023

We can confirm that the ICB does hold part of the information you requested. However, they only came into existence July 2022. The predecessor CCGs did not hold the information in the format requested however please see our response below to the information that is held.

1. Please may you provide me, in Microsoft Excel or an equivalent electronic format, with a list of non NHS trade invoices that were not paid within 30 days for the last 6 financial years which would feed into the Regulation 113 Notice you are required to publish each year as part of your obligations under The Public Contracts Regulations 2015, with the following information for each invoice (where available):

- The name of the Supplier
- Supplier email address
- Supplier company registration number
- Supplier postal address
- Supplier telephone number
- Supplier website
- The date of the invoice
- The invoice reference
- The gross value of the Invoice
- The date the invoice should have been paid by
- The actual payment date of the invoice
- The total amount of interest liability due to late payment of the invoice
- The total amount of interest paid to the supplier due to late payment of the invoice.

NHS Lancashire and South Cumbria ICB does hold the information requested, however in this case we will not be providing it to you as it is exempt from disclosure.

We are not obliged to provide information if its release would prejudice law enforcement. In this case, we believe that releasing detailed information such as payment activity on accounts creates a security risk and is likely to prejudice the prevention or detection of crime (section 31(1)(a)).

We believe that the data requested is information that would be needed to perpetrate fraud. There is no suggestion that this is the purpose of this request, however it is a factor when considering the release of information.

In line with the terms of this exemption in the Freedom of Information Act (FOIA), we have also considered whether it would be in the public interest for us to provide you with the information, despite the exemption being applicable. In this case, we have concluded that the public interest favours withholding the information.

You can find out more about Section 31 on the link below:

<https://ico.org.uk/media/for-organisations/documents/1207/law-enforcement-foi-section-31.pdf>

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

Public interest considerations favouring disclosure

- There is public interest in transparency and accountability of the department,
- Disclosure may promote public understanding.
- There is public interest in good decision-making by public bodies

Public interest considerations favouring withholding the information.

- Disclosing the payment activity on individual accounts creates a fraud risk as this information could allow individuals to disrupt the payment process and potentially be subject to a fraud attempt.

We have also considered Section 43(2) Commercial Interest. Section 43(2) provides an exemption from disclosure where to release information would or would be likely to prejudice the commercial interests of any party (including the Public Authority holding it).

Disclosure of the requested information could prejudice the ICB as they may be subject to fraud if the information is released in the public domain. This is a qualified exemption under the FOI Act which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption.

The public interest means what is in the best interests of the public not what is of interest to the public.

We have considered whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

There are a number of public interest arguments that weigh in favour of disclosing the information you have sought:

- The FOIA requires that public sector organisations are open and transparent in relation to their business making decisions.
- Public have an interest in knowing how public funds are spent and know that funds are being used appropriately.
- Disclosure may promote public understanding.
- There is public interest in good decision-making by public bodies.

However, there are also public interest arguments against disclosure:

- Disclosing the payment activity on individual accounts creates a fraud risk as this information could allow individuals to disrupt the payment process and potentially be subject to a fraud attempt.

We reached the view that, on balance, the public interest is better served by withholding this information under Section 31(1)(a) and Section 43(2) of the Act at this time.

Right of Appeal

Should you require any further information or clarification regarding this response please do not hesitate to contact us. If you are dissatisfied with the response, you are entitled to request an internal review which should be formally requested in writing and must be within two calendar months from the date this response was issued.

To request an internal review

You can request this by contacting the FOI team by email at MLCSU.FOITeam@nhs.net or by post to Jubilee House, Lancashire Business Park, Leyland, PR26 6TR, specifying why you require a review.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the CCGs FOI complaints procedure. The ICO can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF
www.ico.gov.uk

Yours sincerely

**On behalf of Kevin Lavery
ICB Chief Executive**