

Executive Corridor
Darlington Memorial Hospital
Hollyhurst Road
Darlington
DL3 6HX
Switchboard Tel: 01325 38 0100
Foundation Trust Office: 01325 74 3625
Corporate Records Office: 01325 74 3700

Request for Information Reference: 10.20.46

FOI Direct line: 01325 743700
Email: cdda-tr.cddftfoi@nhs.net

Email only

25th October 2021

Freedom of Information Act 2000 – Request for Information

Thank you for submitting a request for information which we received on 23rd October 2020 in relation to County Durham and Darlington NHS Foundation Trust (the Trust). Your request has been processed under the provisions of the Freedom of Information Act 2000 and I am now able to provide you with a response.

Firstly please accept my apologies for the time taken to respond. Your request was in relation to rostering information and I am providing the following information in response to your specific questions:

Under the Freedom of Information (FOI) act I am submitting a request for information on your organisations rostering information. Please can you complete the attached FOI Questions?

Please find enclosed the questionnaire you requested to be completed and note that the answer to question 4 has not been provided. We are unable to provide the information as requested on the grounds that this information is commercially sensitive and has, therefore, been withheld pursuant to Section 43 of the Act.

Section 43 (2) exempts from disclosure the following:

(2) Information, the disclosure of which would, or would be likely to, prejudice the commercial interests of any person including those of the public authority holding the information.

Our supplier has made clear representation that pricing for the service is commercially sensitive information, the disclosure of which would be likely to prejudice their commercial interests, as it would provide alternative bidders with an understanding of their costs (which would not be reciprocated) with respect to similar contracts in the NHS, thereby undermining their ability to tender, on fair and equal terms, for such contracts. The Trust considers that there is potential for such harm to

arise with reasonable proximity and, therefore, that the exemption under Section 43(2) of the Act is engaged.

The Trust acknowledges the public interest in publication of the information; specifically the interest in transparency with respect to expenditure on services, as a means of assisting the taxpayer in evaluating their value for money. However, there is a competing public interest in preserving fair market competition and the ability of public authorities to obtain value for money when sourcing services. In previous rulings the Information Commissioner has made clear that the Freedom of Information Act is not intended to distort fair market competition. In this case, the Trust therefore considers that the public interest in preserving fair competition outweighs the general public interest in transparency and is therefore applying the exemption under Section 43(2).

In line with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log on the Trust's website. However please be assured that we anonymise all responses prior to adding them to the disclosure log.

I hope that this response has provided you with the information you had requested. I am sorry that I have not been able to provide all of the information you requested, however I hope that my explanation as to why this is not possible has been satisfactory. If you have any queries or wish to discuss the information supplied, please do not hesitate to contact me by telephone or in writing. If however, you are dissatisfied with the way in which your request has been handled and would like an internal review, you will need to contact me in writing at the above address or via cdda-tr.cddftfoi@nhs.

If you remain dissatisfied with our response following an internal review you have the right to appeal to The Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. More information is available on their website; www.ico.gov.uk.

Yours sincerely

Corporate Records and Freedom of Information Facilitator