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Request for Information Reference: 06.22.10

FOI Direct line: 01325 743700  
Email: [cdda-tr.cddftfoi@nhs.net](mailto:cdda-tr.cddftfoi@nhs.net)

Email only

16<sup>th</sup> June 2022

## **Freedom of Information Act 2000 – Request for Information**

Thank you for submitting a request for information which we received on 7<sup>th</sup> June 2022 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.

Your request was in relation to CRM devices and I am providing the following information in response to your specific questions:

**I am writing to you under the Freedom of Information Act 2000 to request the following information from the Trust, separated by the hospitals within your trust:**

### **1. A list of Single Chamber and Double Chamber CRM devices purchased in 2021**

Please find enclosed the spreadsheet you requested to be completed. All devices specified are located in Darlington Memorial Hospital.

Please note the Trust is 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 CRM devices released in combination with the quantity of devices 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. 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](mailto: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](http://www.ico.gov.uk).

Yours sincerely  
**Corporate Records and Freedom of Information Facilitator**