

Our Reference      North East and North Cumbria ICB\  
FOI ICB 24-061

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By Email

22 May 2024

Dear Applicant

**Freedom of Information Act 2000 – Request for Information – NHS North East and North Cumbria Integrated Care Board (NENC ICB)**

Thank you for your request received by North of England Commissioning Support (NECS) on 25 April 2024 for information held by NHS North East and North Cumbria Integrated Care Board (NENC ICB) under the provisions of the Freedom of Information Act 2000.

NENC ICB covers the areas of County Durham, Gateshead, Newcastle, North Cumbria, North Tyneside, Northumberland, South Tyneside, Sunderland, and Tees Valley (which covers the 5 councils that make it up – Darlington, Hartlepool, Middlesbrough, Redcar & Cleveland and Stockton-on-Tees).

Please find the information you requested on behalf of the ICB as follows.

**Your Request**

Would you be able to provide us with the details of the practices in the Tees Valley area that are receiving financial assistance to exit their analogue system contracts please?

To be specific, I would like to request the following information:

1. How many practices in the Tees Valley have received funding support to enable them progress to a cloud-based telephony system?
2. How much money did each practice receive and what was the total financial support to these practices across the Tees Valley and by each locality area.
3. Had any of these practices made a decision or taken actions to moving to a digital system prior to them expressing an interest in seeking financial support.
4. Which other practices in the Tees Valley area have approached the ICB for financial assistance but had subsequently been advised that they did not meet the criteria.

I know this is detailed information, but it should all be available and presumably fall within any reasonable request for information under FOI.

## **Our Response**

We can confirm, as per Section 1(1) of the Freedom of Information Act 2000, the ICB does hold the requested information. However, on this occasion, it is not possible to satisfy all elements of your request.

The Freedom of Information Act (FOIA) 2000 contains a number of exemptions that allow a public authority to withhold certain information from release. Some of the requested information is exempt under s.43(2) of the FOIA2000 as disclosure is likely to prejudice the commercial interests of a person as defined by the Act.

The s.43(2) exemption applies to part of question 2.

S.43(2) of the Freedom of Information Act protects against the disclosure of information where it would be likely to prejudice the commercial interests of either a third party or the public authority itself. We are of the opinion the release of the specific details would, or would be likely to, prejudice the commercial interests of GP practices who received this funding.

1. 8 Practices across Tees Valley were supported to move from analogue to digital cloud-based telephony systems in phase 1. A further 18 Practices were supported in phase 2.
2. The total spend for those 26 Practices was £501,135 which gives an average of £19,274 per Practice.

The Information Commissioners Office has established a multi criteria test for assessing whether a section 43(2) exemption is applicable to the requested information. The first criteria is to determine if the information relates to or could impact on a commercial activity, the second criteria is if the commercial activity is conducted in a competitive environment, and finally if that information is commercially sensitive.

### **Considerations in favour of disclosure:**

- Encourage and promote good competition and value for money
- Transparency of functions; procurement and services to NHS

### **Considerations against disclosure:**

- Making the amounts paid to various suppliers publicly available could have commercial consequences for any forthcoming CBT contracts
- One supplier could look at another suppliers' costs and raises their prices accordingly.

### **Conclusion:**

The ICB recognises that there is a public interest in the disclosure of information which facilitates the accountability and transparency of public bodies for decisions taken by them. However, there is also a public interest in the ICB being able to work within competitive markets where results in a financial or resource benefit is put to the wider public interest. Having undertaken the balancing exercise, the ICB has concluded that the public interest in maintaining the exemption outweighs the public interest in disclosing the requested information having regard to the effect that disclosure would not be in the public interest.

We consider given that the definition of 'public' under the Act is considered to be the public at large, rather than just the individual applicant or a small group of people and that 'public interest' is not necessarily the same as what interests the public, it is considered that to release this

information into the public domain is likely to result in prejudice to the commercial interests of the ICB and tendering parties which is not outweighed by the wider public interest for disclosure.

3. None of the Practices had already signed up to a provider from the framework prior to expressing an interest in receiving financial support.
4. There were no other Practices within Tees Valley that approached the ICB and were advised they did not meet the criteria.

In accordance 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. Therefore, a version of our response which will protect your anonymity will be posted on the NHS ICB website <https://northeastnorthcumbria.nhs.uk/>.

If you have any queries or wish to discuss the information supplied, please do not hesitate to contact me on the above telephone number or at the above address.

If you are unhappy with the service you have received in relation to your request and wish to request a review of our decision, you should write to the Senior Governance Manager using the contact details at the top of this letter quoting the appropriate reference number.

If you are not content with the outcome your review, you do have the right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act 2000. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the North of England Commissioning Support Unit.

The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

[www.ico.org.uk](http://www.ico.org.uk)

Any information we provide following your request under the Freedom of Information Act will not confer an automatic right for you to re-use that information, for example to publish it. If you wish to re-use the information that we provide and you do not specify this in your initial application for information then you must make a further request for its re-use as per the Re-Use of Public Sector Information Regulations 2015 [www.legislation.gov.uk](http://www.legislation.gov.uk) . This will not affect your initial information request.

Yours sincerely

*S Davies*

**S Davies**  
**Information Governance Officer**