



# North East and North Cumbria

Our Reference      North East & North Cumbria  
ICB\499

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07/09/2023

Applicant  
By Email

Dear Applicant,

**Freedom of Information Act 2000 - Request for Information – NHS North East & North Cumbria Integrated Care Board.**

Thank you for your request received by North of England Commissioning Support (NECS) on 18/08/2023 for information held by NHS North East and North Cumbria Integrated Care Board (ICB) under the provisions of the Freedom of Information Act 2000.

For information Clinical Commissioning Groups ceased to exist on 30 June 2022. Services that were previously delivered by the CCG are now being delivered by the successor organisation NHS North East and North Cumbria (ICB). This covers the areas of County Durham, Newcastle Gateshead, North Cumbria, North Tyneside, Northumberland, South Tyneside, Sunderland and Tees Valley.

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

**Request**

- 1. Please can you provide the product names with start and finish dates of all your agreed primary care rebates?**
- 2. Please can you advise the level of discount for each agreement and if any of your agreed rebates are conditional on achieving increased volumes/ market shares?**

3. I would also like to request the process of how you review and evaluate the rebates presented to you and whether the ICB indicates a preference of a rebated product over a comparable non-rebated product to clinicians?
4. Please can you also provide a copy of your most up to date primary care rebate policy.

### Response

1.

Name of Drug	Company	Initial Start Date	Latest contract start date	End Date
<b>ICB Degarelix (Firmagon)</b>	<b>Company</b>	<b>Start Date</b>		<b>End Date</b>
	<b>Ferring</b>	<b>01/07/2022</b>	<b>03/01/2023</b>	<b>31/12/2024</b>
Slenyto	Flynn Pharma	01/07/2022		30/06/2025
Xaggatin XL	Ethypharm	01/07/2022		30/06/2024
Fostair	Chiesi		7/11/22	7/11/24

2. NHS North East & North Cumbria Integrated Care Board (ICB) does hold this information. The ICB considers this information exempt from disclosure under Freedom of Information Act 2000, Section 43(2) (Commercial Interests). Releasing this information would adversely affect the commercial interests of the ICB.

Section 43(2) is a prejudice based 'qualified' exemption and is subject to the public interest test. This means that not only does the information have to prejudice one of the purposes listed, but before the information can be withheld, the public interest in preventing that prejudice must outweigh the public interest in disclosure.

#### Public Interest Test

Considerations in favour of disclosure:

- *Transparency of functions; procurement and services to NHS*
- *Encourage and instil trust and confidence.*

Considerations against disclosure:

- *Could prejudice prescribing choices if the values of the contracts were made public.*
- *Could result in the rebate scheme being withdrawn. This would result in additional costs to the NHS.*
- *Suppliers have expressed a desire for confidentiality of their commercial interests within the contract.*
- *Release of the information could jeopardise future agreements.*

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. *Since the inception of the ICB there is no formal processes in place for the purpose of reviewing and evaluating rebate schemes. Previously agreed CCG schemes have been renewed where the terms of those agreements have not been changed and where PresCQuipp have not raised significant concerns. These schemes are not advertised to or shared with clinicians.*

4. *There is no formal policy in place for NENC ICB. Attached is the process that was followed before the inception of the ICB but is now largely obsolete.*



Primary Care Rebate  
Schemes - assessmen

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. 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 make a complaint or 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 complaint, you may apply directly to the Information Commissioner for a decision. 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

*Ehren Smith*

**Information Governance Officer**