

Request for information under the Freedom of Information Act – 2022.091
Released – 14 July 2022

Thank you for your email received 4 July 2022 requesting information regarding spend on legal services.

Please find detailed below a summary of your request, together with our response.

Summary of your original request:

Please could you provide us with following details :

- 1. Total spend on legal services in 2019/20, 2020/21 and 2021/22**
- 2. The names of the law firms you bought services from over that period**
- 3. A breakdown of the total spend by fees and settlement payments**
- 4. The means of procurement – e.g. a direct award, competitive tender, framework (including which framework you used), etc.**

At this time we are unable to provide the information you have requested as this is currently part of a live tender process. If we were to release this information it would likely prejudice the commercial interests of the Trust and that of the providers of these services. This information is therefore exempt from disclosure by virtue of section 43(2) of the Freedom of Information Act 2000, Commercial Interests.

Section 43(2) is a qualified and prejudice-based exemption which requires that I provide evidence of harm in disclosure and a public interest test. I have included the relevant part of this exemption and the evidence of harm and public interest test below.

Section 43 – Commercial Interests

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Evidence of Harm

Disclosure of the information requested would be likely to damage the commercial interests of both the Trust and providers of these services as it would assist competitors by providing information that may assist them during the tender process for the provision of these services.

Public Interest Test

Factors Favouring Disclosure

The disclosure of the information requested would contribute towards the aims of openness and accountability which the Freedom of Information Act promotes. It would also show that there is transparency in the use of public funds and that public money is being used effectively.

Chair John Goulston Chief Executive Mairead McCormick

Trust HQ The Oast, Unit D, Hermitage Court, Hermitage Lane, Barming, near Maidstone, Kent ME16 9NT

Factors Favouring Non-Disclosure

To release information relating to the existing service provider would weaken both their position and that of the Trust in a competitive environment by revealing market-sensitive information or information of potential usefulness to competitors.

The provision of the information requested would be likely to prejudice the commercial interests of the Trust during a tendering process which would result in the less effective use of public money.

Balancing Test

Whilst we note that the provision of the information requested would ensure that we remain open and accountable, this is outweighed by the need for the Kent Community Health NHS Foundation Trust to remain competitive with regards to tenders and commercial activity and to protect the commercial interests of the Trust and of those who provide services to the Trust.

I have therefore determined that the public interest in maintaining the exemption at section 43(2) outweighs that in disclosure and, in accordance with section 17(1) of the Act, this information is exempt.