

**Reference:** FOI 33350 BUCKS 14Y

**Subject:** IT Service Management

*I can confirm that the CCG does hold some of the information requested; please see responses below:*

QUESTION	RESPONSE
1. What software product(s) are you using to manage your IT Service Management (e.g. ServiceNow, Cherwell, Hornbill etc.)?	TOPdesk
2. Who is your current vendor?	As above
3. When does the contract with your current service desk provider end?	2021
4. How much does your current ITSM service desk tool cost annually?	*Section 43(2) – Please see below
5. When will you be looking to review your current service desk tool?	2021
6. What software product(s) are you using to manage your desktops ITAM e.g SCCM, Manage engine etc.)?	Certero

<b>7. Who is your current vendor?</b>	As above
<b>8. When does the contract with your current desktop provider end?</b>	2023
<b>9. How much does your current ITAM desktop tool cost annually?</b>	*Section 43(2) – Please see below
<b>10. When will you be looking to review your current desktop tool?</b>	2023
<b>11. Who is your primary IT company contact?</b>	Director of IT Services

\*The CCG have been unable to provide this information as it is considered to be commercial in confidence and is exempt from disclosure under [Section 43\(2\)](#) of the Freedom of Information Act 2000 (FOIA). Section 43(2) states that information will be exempt if its disclosure would, or would be likely to, prejudice the commercial interest of any person. (A person may be an individual, a company, the public authority itself or any other legal entity.)

The section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party.

Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain or possibly released at a future date. The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

In reaching this decision the CCG has considered the likely prejudice to both the organisation and service providers, and also the public interest in the release of this information, and the CCG considers that the detailed information requested is, by virtue of s43(2) of the FOIA, exempt information.

The following points are pertinent to the comments above:

- Any release under the FOIA is necessarily a release to the public, not to any one individual. Disclosure of this information could put the provider at an unfair disadvantage during any future procurement of services.
- Release of this information could potentially impact on a bidder commercially and financially should the information be utilised by a competitor.
- Disclosing the information will prejudice the position of the organisation in the market due to the increase competition and competitive processes that are undertaken by different contracting authorities.
- The income of companies is always sensitive. Should the CCG release this information, it may put itself at risk of legal challenge. If a legal challenge was to be brought against the organisation because of the sharing of confidential information which should not be disclosed to third parties, this could impact significantly on both the financial and reputational credibility of the CCG.
- Releasing the requested information would potentially impact on the CCG's ability to obtain best value and quality of service through fair competition and potentially impact on budgets set within the CCG and the NHS.

The Section 43(2) exemption is, however, a qualified exemption and the duty to disclose the requested information arises unless, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The CCG has, therefore, considered this question.

### **Public Interest Test**

The CCG 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 CCG being able to work within competitive markets where that results in a financial or resource benefit which is put to the wider public interest.

Having undertaken the balancing exercise, the CCG 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 the disclosure of the information would not be in the public interest as:

- Publication of the information requested could give future potential providers an unfair advantage in negotiating contracts with the CCG, which in turn could increase the cost of services provided under NHS contracts in the CCG area, which would not be beneficial to the public.
- By disclosing the financial information to parties external to those that are contracted it could carry the risk that the providers could cease to offer these services disadvantaging our patient population.

- Disclosure of the information requested could increase the risk of collusion between future bidders for these services with the possibility of price/service setting as a 'ring', which could undermine the integrity and competitive nature of procurement and would not be in the public interest.
- Disclosure would restrict the submission of truly competitive bids in future tender processes and impact on the CCG's ability to obtain best quality of service through fair competition.
- The disclosure of the information would prejudice the commercial interests of the CCG and its service providers.

### **Conclusion**

For these reasons, the CCG concludes that it is not in the Public Interest to release information at this time.

***The information provided in this response is accurate as of 11 November 2019, and has been authorised for release by Robert Majilton, Deputy Chief Officer and Director of Sustainability & Transformation for NHS Buckinghamshire CCG. .***