

NHS South East London ICB  
160 Tooley Street  
London  
SE1 2TZ

**Email:** [foi@selondonics.nhs.uk](mailto:foi@selondonics.nhs.uk)

Dear Carla Torre,

Reference: FOI.23.SEL281

06 December 2023

**Re: Freedom of Information request**

Thank you for your request under the Freedom of Information Act 2000 made to NHS South East London Integrated Care Board (SEL ICB).

**Your Request**

**I would be grateful to receive a copy of your DSP Toolkit External Auditor Assessment for last year (22/23)**

**Our Response**

NHS South East London ICB does hold this information. The ICB considers that this information is exempt under Freedom of Information Act 2000, Section 36(2)(c) as its disclosure would be prejudicial to the effective conduct of public affairs, given the confidential nature of the assessment in terms of the ICBs data security.

Section 36(2) requires a public authority to consult a relevant qualified person before the exemption is engaged. It further necessitates that the qualified person has the reasonable opinion that the harm referenced in the exemption would, or would be likely to, arise through disclosure. The qualified person in this case is Andrew Bland, Chief Executive.

In the qualified person's opinion Section 36(2)(c) is engaged. Section 36 is a qualified exemption and before the information can be withheld the wider public interest needs to be balanced against the harm specified in the exemption.

### **Public Interest Test**

Considerations in favour of disclosure:

- The inherent public interest in the openness and transparency of public authority dealings
- The public interest that officials are spending public money wisely and getting best value, without fear or favour.

Considerations against disclosure:

- There is an inherent public interest in not disclosing information which could be misleading to the public and may not accurately reflect the final information.
- There is an inherent public interest in allowing free and frank discussion and formulation of opinion which could be negatively impacted by the disclosure of potentially misleading information which is subject to change.
- The assessment of the ICBs data security is of a confidential nature and its release could expose the ICB to unsolicited attempts to access its data should any weaknesses in the system be identified.

### **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, having undertaken the balancing exercise, the ICB have 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.

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 sensitive information into the public domain is likely to result in the harm specified in the exemption which is not outweighed by the wider public interest for disclosure.

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You are required not to use personal data which is provided to you for electronic marketing (telesales, fax, e-mail) to our staff and comply with the Privacy and Electronic Communications (EC Directive) Regulations 2003. Provision of such personal data in response to a Freedom of Information or Environmental Information request does not constitute consent from the individual concerned.

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**Review procedure**

If you feel that we have not met the requirements of the Freedom of Information Act 2000, you should contact the FOI Team at: [foi@selondonics.nhs.uk](mailto:foi@selondonics.nhs.uk)

If you remain dissatisfied, you can ask us to review our decision by making a written request for an internal review. In order to assist with the review, you should include your address, a description of the original request and the reasons why you are dissatisfied. Please send this to:

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The review will be handled by more senior staff who were not involved in the original decision. We aim to complete all internal reviews within 20 working days. If you then wish to appeal you should contact the Information Commissioner for an independent review at the following address:

The Information Commissioner,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF  
Tel: 0303 123 1113  
Website: [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely,

**Freedom of Information Team**  
**NHS SEL ICB**