

Department for
Information Governance,
Caldicott & SIRO Support
Royal Hallamshire Hospital
2 Claremont Place
Sheffield
S10 2TB

Tel: 0114-2265151
Email: sth.foi@nhs.net

Jamie Keith

request-623xxxxxxxxxxx@xxxxxxxxxxxxxxxxxxx

24th December 2019

Our ref: FOI RFI 007847

Your ref: email received 26th November 2019

Dear Jamie

Freedom of Information Request

Further to your email dated and received by the Trust on 26th November 2019, our response to your request is as follows (highlighted in blue):

The below information is requested for all your PFI contracts

- Minutes from the monthly performance meetings between the Trust and Project Co/Service Providers between the period November 2017 and November 2019.

[Please see below](#)

- What other regular meetings take place between the Trust and Project Co/Service Providers?
 - o Copies of minutes from the above meetings between for the present and last Contract Year

[Please see below](#)

- The dates of Joint Liaison Committee Meetings, including extraordinary meetings and minutes of those meetings for the present and last Contract Year

[Please see below](#)

- The nature and issues raised in conjunction with the Dispute Resolution Procedure in the period November 2017 and November 2019?

- o Copies of documents provided to the Adjudicator
- o Documents pertaining to the Adjudicators decision for each issue
- o The results of the Adjudicators decision for each issue

[Not applicable](#)

- What issues have been settled before reaching the Dispute Resolution Procedure?
 - o What was the value of each settlement?
 - o Provide copies of all documents pertaining to each settlement

[Not applicable](#)

Trust Response

I consider that exemptions apply to the information you have requested. Sheffield Teaching Hospitals NHS Foundation Trust has had, and is currently in, detailed meetings and discussions with the Project Co/Service Provider for the single PFI contract within the Trust over the period you have detailed in your request. I consider the exemptions detailed below cover the first 3 questions of your request, namely:

- *Minutes from the monthly performance meetings between the Trust and Project Co/Service Providers between the period November 2017 and November 2019.*
- *What other regular meetings take place between the Trust and Project Co/Service Providers?*
 - o *Copies of minutes from the above meetings between for the present and last Contract Year*
- *The dates of Joint Liaison Committee Meetings, including extraordinary meetings and minutes of those meetings for the present and last Contract Year*

I consider that the exemption set out in section 36 of the Freedom of Information Act 2000 (FOI) apply here. Whilst I can neither confirm nor deny whether we hold the specific information that you have requested. This point of view is supported by the opinion of the Trust Qualified Person (QP) as defined in Section 36.5 of the FOI.

If any form of information requested (should it exist) were disclosed, the prejudice/inhibition specified in section 36(2)(b)(i) would be likely to occur and there is a real risk that it would be likely to inhibit the free and frank advice to the Trust Board as set out in section 36(2)(b)(ii).

Consequently, the Trust is not obliged to confirm or deny whether we hold the information you have requested as this would prejudice or be likely to prejudice the effective conduct of public affairs. Section 36(3) of the Act provides that there is no duty to confirm or deny whether we hold the information.

Public Interest Test

As this exemption is a qualified exemption I must now proceed to consider the public interest test. Even though the QP is satisfied that the exemption is engaged this does not automatically mean that any information (if it exists) should be withheld. I will now assess whether the reasons for withholding any information outweigh the reasons for releasing the information.

There are always strong arguments to release information held by an NHS Trust that show the public how we consider issues and what steps we have in place to address those issues. The release of such information helps the public understand decisions made by the organisation. It can also help to reassure the community that the Trust understands and is prepared to address risks of concern to patients and the public. Openness and transparency in public decision making will always give significant weight to disclosure arguments for public authority information.

Balanced against that is the fact that the information requested relates to an ongoing process of how Sheffield Teaching Hospitals NHS Foundation Trust is preparing to address potential contractual issues arising out of the PFI contract. This relates to current decision making that is of significance to the Trust, its staff, its patients and members of the public.

The extent of the impact of release of the documents is magnified by the timing of the request, which has come when there may possibly be issues around the PFI contract. The Trust considers that the release of sensitive information (should it exist) would seriously inhibit its ability to operate. Such release would likely impact on full and frank discussions within the Trust. The effect would be exacerbated because decisions are still being made about how to mitigate any possible impacts related to the PFI contract so the prejudice to frank discussions would likely have a greater impact.

Therefore on balance I consider the reasons for release of any information (should it exist) are outweighed by the weight of the reasons to withhold the information.

For further advice on FOI is on the website of the Information Commissioner, see for example:

https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf

https://ico.org.uk/media/for-organisations/documents/1175/section_36_prejudice_to_effective_conduct_of_public_affairs.pdf

This completes the Trust response to your request, but please note:

Your rights

If you are unhappy with the way we have handled your request, you may ask for an internal review in accordance with Section VI Complaints Procedures of the Section 45 Code of Practice of the Freedom of Information Act 2000: and in accordance with Appendix E of the Trust's Code of Practice for Responding to Requests for Information (v 6.0 dated 29/07/19).

If you wish to complain you should contact:

Information Governance,
Caldicott & SIRO Support Manager
Department for Information Governance, Caldicott & SIRO Support
Sheffield Teaching Hospitals NHS Foundation Trust
Royal Hallamshire Hospital
2 Claremont Place
Sheffield
S10 2TB

Tel: 0114 226 5151

Email: xxx.xxx@xxx.xxx

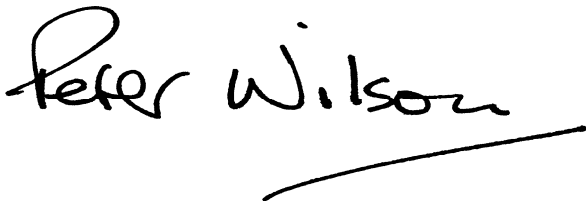
If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision.

The Information Commissioner can be contacted at:

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

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications

Yours sincerely

A handwritten signature in black ink that reads "Peter Wilson". The signature is written in a cursive style with a long horizontal line extending from the bottom of the name.

Peter Wilson
Data Protection Officer,
Information Governance,
Caldicott & SIRO Support Manager