

Reference: FOI 27293 OXF 10Q

Subject: Pharmacy Payment Data

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

QUESTION	RESPONSE
<p>I was wondering if I could please request details of payments made to pharmacies for locally commissioned NHS or private services, for example smoking cessation, emergency hormonal contraception, supervised consumption of medicines, & needle exchange services.</p> <p>If you could kindly provide this in spreadsheet(s) format, with a breakdown by pharmacy (name and address), month, service, and payment, I would greatly appreciate it (if you also have the ODS code identifier for the pharmacy, then please kindly include this also). If possible, details of the most recent 12 months worth of payments.</p>	<p>Oxfordshire CCG only commission 3 community pharmacy services.</p> <p>The 3 community pharmacy services OCCG commission are:</p> <ul style="list-style-type: none"> • Minor Ailments Scheme • UTI Service (trimethoprim PGD) • Palliative care scheme <p>Please see the attached spreadsheet for details of payments made in the last 12 months. The CCG not able to provide the data broken down by month as this is commercially confidential and is therefore exempt under Section 43(2), for more information please see below.</p>

The CCG have been unable to provide financial details of payments made to pharmacies for locally commissioned NHS or private services broken down by month, 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 CCG considers that to disclose the information you have requested would prejudice the commercial interests of the parties concerned. This information is commercially sensitive to the tenderers and it is important to their competitiveness that they are able to remain as a participant in the market.

With regards to the CCG's commercial interest, if the CCG disclosed this type of information it would adversely affect our ability to source suppliers in a competitive environment. This would impact all involved in future agreements as it could lead to a prospective providers gaining an advantage over others or seeming to gain such an advantage. The information is exempt as the CCG considers that its disclosure under the FOIA would, or would be likely to, prejudice the commercial interests of both it and their providers' ability to participate effectively in a competitive market.

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 providers at an unfair disadvantage during any future procurement of services.
- Releasing the requested information would potentially impact on both the CCG and its providers' ability to obtain best value contract through fair competition and could impact on budgets set within the NHS.
- Release of the detailed information, would constitute a breach of confidentiality with those bidders/providers, which would lead to lack of trust from current and future providers, thus restricting future competition for tenders and would prejudice the CCG's ability to obtain best quality of service and value, potentially impacting on budgets set within the CCG and the NHS which is not in the public interest.
- 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 likelihood of prejudice to the commercial interest is real due to the level of competition in the market which includes private providers.

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:

- Release of the detailed information, would constitute a breach of confidentiality with those providers, which would lead to lack of trust from current and future providers, thus restricting future competition for tenders and would prejudice the CCG's ability to obtain best quality of service and value, potentially impacting on budgets set within the CCG and the NHS.

- 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 the services provided under NHS contracts in the CCG area, which would not be beneficial to the public.

Conclusion

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

The information provided in this response is accurate as of 15 August 2018, and has been authorised for release by Catherine Mountford, Director of Governance for NHS Oxfordshire CCG.