

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

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

Dear Mr Royds,

Reference: FOI.22.SEL083

15 August 2022

**Re: Freedom of Information request**

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

**Your Request**

- 1. Do you have a Tier 3 Weight Management programme? If so, please provide the contract expiry date, contract value and vendor name.**

Yes

TBS Healthcare, Contract Expiry date 30 September 2022.

\* Please see below for contract value.

- 2. Who is the senior officer/officer (outside of procurement) responsible for Tier 3 Weight Management?**

South East London ICB Director of Commissioning and Improvement.

- 3. Do you have a Diabetes Structured Education programme? If so, please provide the contract expiry date, contract value and vendor name.**

Yes – this is called Diabetes Book and Learn, provided by Spirit Healthcare. Contract expiry date is October 2023.

\* Please see below for contract value.

**4. Who is the senior officer/officer (outside of procurement) responsible for Diabetes Structured Education?**

South East London ICB Director of Commissioning and Improvement.

\* NHS South East London ICB does hold this information. The ICB considers this information exempt from disclosure under Freedom of Information Act 2000, Section 43(2) (Commercial Interests). Releasing this information would adversely affect the commercial interests of the ICB. The contract values are part of procurement processes which are confidential – so tenders compete on price and do not know what other tenderers are offering.

Section 43(2) is a prejudice based 'qualified' exemption and is subject to the public interest test. This means that not only does the information have to prejudice one of the purposes listed, but before the information can be withheld, the public interest in preventing that prejudice must outweigh the public interest in disclosure.

**Public Interest Test**

Considerations in favour of disclosure:

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

Considerations against disclosure:

- Disclosing this information may cause more economically efficient providers to raise prices.
- Disclosing this information could prejudice the ICB's ability to obtain best quality of service and value.
- Disclosing this information could weaken the ICB's position as potential companies would not have confidence that the ICB would keep sensitive financial data private.
- The inherent public interest in avoiding the prejudice specified in the exemption.

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, there is also a public interest in the ICB being able to work within competitive markets where results in a financial or resource benefit is put to the wider public interest. Having undertaken the balancing exercise, the ICB 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 would not be in the public interest.

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 prejudice to the commercial interests of the ICB which is not outweighed by the wider public interest for disclosure.

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**Privacy Notice (formerly known as Fair Processing Notice)**

We will record your contact and request details in order to monitor and improve the service we provide and in order to discharge our statutory obligations under the Act. This information will be handled in accordance with the NHS Confidentiality Code of Practice and the *Data Protection Act 2018*.

**Using personal data we provide**

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.

The *Data Protection Act* gives individuals rights to prevent processing likely to cause substantial unwarranted damage or unwarranted distress (section 10) and to prevent processing for the purposes of direct marketing (section 11). You should be aware that selling, giving or sharing of personal data could breach the *Data Protection Act*.

### **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.

Although this will not apply to Section 36 claimed exemptions in accordance with Department of Health Directive, your request will still be reviewed. 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**