

20 July 2018

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[REDACTED]
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[REDACTED]
[REDACTED]

By email
[REDACTED]

Dear [REDACTED]

Request under the Freedom of Information Act 2000 (the “FOI Act”)

We refer to your email of 22 June 2018 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority have been operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and the TDA.

Your request

You made the following request:

“The Model Hospital Team within NHSI has a contract with a third party software company called ‘Softwire’.

Separately, another contract with a company called ‘FourEyes’ for data services.

I would like to know expenditure details for these two companies. As you know, I have a right to know how we have allocated public funds in the acquisition of services from third parties.

Can you please send me details relating to expenditure for the companies named above. I would like to see how much has been paid to these companies to date since the start of their contracts as well as all payment breakdowns.”

Decision

NHS Improvement holds the information that you have requested and has decided to release some of the information that it holds. We are withholding details of the payment breakdown on the basis of applicability of section 43 of the FOI Act.

We are currently in the process of finalising a contract with Four Eyes International (FEI) in relation to data processing for circa £40k.

To date, NHS Improvement has spent £482,291.75 with Softwire Technology Limited for Model Hospital development, support and continuous improvement. Please refer to the link below for an overview of the contract award:

<https://www.digitalmarketplace.service.gov.uk/digital-outcomes-and-specialists/opportunities/4798>

We confirm we hold a payment breakdown for the costs with Softwire Technology Limited but are withholding this under section 43 of the FOI Act, as explained in detail below.

Section 43 – Commercial Interests

Section 43 of the FOI Act provides an exemption for information, the disclosure of which would or would be likely to prejudice the commercial interests of any person (including the interests of a public authorities).

The Information Commissioner’s relevant guidance states that:

“...a commercial interest relates to a person’s ability to participate competitively in a commercial activity, i.e. the purchase and sale of goods or services”

We consider that the commercial interests of Softwire Technology Limited would be likely to be prejudiced if we disclose the breakdown of their costing arrangements. The fees relate to the company’s pricing strategies which are unique to each provider. Disclosure of the information requested could disadvantage Softwire Technology Limited in competing for work against other providers and for future tenders. If their competitors were to be aware of their fees and pricing mechanisms, they could effectively use this information to price themselves below Softwire Technology Limited when bidding for similar work. This would give them an unfair advantage to competitors when seeking business from potential clients.

As this is a qualified exemption we must consider whether the public interest in withholding the information outweighs the public interest in disclosing it.

We have taken into account the public interest in promoting accountability and transparency by public authorities for decisions taken by them and in the spending of public money. However, we have also considered the strong public public interest in ensuring that the commercial interests of Softwire Technology Limited are not prejudiced. Furthermore, withholding the information protects the integrity of the commissioning arrangements. If commercially sensitive information is released, it will discourage providers to do business with public bodies.

Review rights

If you consider that your request for information has not been properly handled or if you are otherwise dissatisfied with the outcome of your request, you can try to resolve this informally with the person who dealt with your request. If you remain dissatisfied, you may seek an internal review within NHS Improvement of the issue or the decision. A senior member of NHS Improvement's staff, who has not previously been involved with your request, will undertake that review.

If you are dissatisfied with the outcome of any internal review, you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act.

A request for an internal review should be submitted in writing to FOI Request Reviews, NHS Improvement, Wellington House, 133-155 Waterloo Road, London SE1 8UG or by email to nhsi.foi@nhs.net.

Publication

Please note that this letter will shortly be published on our website. This is because information disclosed in accordance with the FOI Act is disclosed to the public at large. We will, of course, remove your personal information (e.g. your name and contact details) from the version of the letter published on our website to protect your personal information from general disclosure.

Yours sincerely,

NHS Improvement