Dear

Freedom of Information Request – DGS 181

Thank you for your recent request for information made under the Freedom of Information Act 2000, which was received by NHS Medway Clinical Commissioning Group (CCG) on 21 January 2019. The information you have requested is listed below together with the response:

1) Information regarding the tariffs or fee structure paid to independent providers of domiciliary care, to include the specific rates paid currently, and previously back as far as 2014.

2) The processes or protocols for identifying and commissioning suitable independent domiciliary care providers.

We can confirm that NHS Dartford Gravesham and Swanley Clinical Commissioning Group (CCG) does hold this information. However, this information is considered to be exempt under Section 43 (1) as release of this information could prejudice the CCG’s care providers, as disclosure of this information could give competitors an unfair advantage from the information obtained in this FOI. The CCG must also ensure that when spending public money that it is getting value for money and believes that disclosing this information could prejudice the CCG’s ability to obtain best quality of service and value.

Section 43(2) is a 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

Reasons to disclose the requested information

- The public need to know that officials are spending public money wisely and getting best value, without fear or favour
- The need for public authorities to be open, transparent and accountable in their dealings

Reasons to withhold the requested information

- Disclosing this information could give competitors an unfair advantage from the information obtained in this FOI.
• It could weaken the CCG’s position as potential companies would not have confidence that the CCG would keep sensitive provider data private.

• If providers are more reluctant to work with the CCG, this may result in the CCG paying higher prices for the same services, which could prejudice the CCG’s ability to obtain best quality of service and value for money.

• This information would significantly add to information which is already available to the public domain, when considering that FOI responses are available to the public in general.

• The disclosure of this information could challenge the CCG’s ability to maintain solvency given the already significant financial pressures faced by the CCG and the annual spend associated with this care area.

Decision

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 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 prejudice to the commercial interests of both the CCG and the care provider organisations which is not outweighed by the wider public interest for disclosure.

The CCG has previously provided information on domiciliary care spend, either on the basis of aggregate spend or on the basis of the weekly rates of patient care package costs, and this is available on our disclosure log which can be found on our website.

We hope that this has dealt with your request for information however, should you remain dissatisfied, you have the right to request that we conduct an internal review of your request. If you would like us to conduct such a review please contact us within two months of this letter using the contact details below:

E-mail: swccg.northkent.foi@nhs.net

Post: FOI, NHS Dartford Gravesham and Swanley Clinical Commissioning Group, 2nd Floor, Gravesham Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU.

Your request for an internal review will then be processed in accordance with our Freedom of Information Policy, a copy of which can be found on our website:

www.dartfordgraveshamswanleyccg.nhs.uk

If you are still dissatisfied following the internal review, you have the right under Section 50 of the Freedom of Information Act 2000 to appeal against the decision by contacting the Information Commissioner. The Information Commissioner provides full and detailed guidance on the Freedom of Information Act, and on when and how to complain.

Please find below the link to their website page and their helpline number.
https://ico.org.uk/for-the-public/official-information/
Helpline number: 0303 123 1113

In line with the Information Commissioner’s directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. An anonymised version of our response will therefore be posted on our website.

Please remember to quote the reference number above in any future communications.