

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 14 March 2025

**Public Authority:** Betsi Cadwaladr University Health Board  
**Address:** Wrexham Maelor Hospital  
Croesnewydd Road  
Wrexham  
LL13 7TD

### **Decision (including any steps ordered)**

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1. The complainant requested information from Betsi Cadwaladr University Health Board relating to costs for the Halo call management system.
2. The Commissioner's decision is that section 43(2) of FOIA – commercial interests is engaged, however, the balance of the public interest favours disclosing the information in this case.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
  - To disclose the withheld information.
4. The public authority must take this step within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## **Request and response**

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5. The complainant made the following information request to the Health Board on 20 May 2024:

"How much has Halo (the Health Boards choice for replacing Service point) cost to procure?

Can you please breakdown the cost to pre-purchase costs, purchase costs, on-going licensing costs and training and maintenance costs?"
6. The Health Board responded on 6 June 2024 providing some information in scope of the request but refused to provide a full breakdown citing section 43(2) of FOIA.
7. The complainant requested an internal review on 8 July 2024 setting out their arguments for disclosure.
8. On 15 July 2024 the Health Board concluded its final position was that the relevant information it holds is exempt from disclosure under section 43(2) of FOIA and that the public interest favours non-disclosure.

## **Reasons for decision**

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9. The Commissioner's reasoning focusses on whether the Health Board is entitled to withhold the information the complainant has requested under section 43(2) of FOIA.

## **Section 43 – commercial interests**

10. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.
11. The Health Board considered that releasing the requested information would cause commercial harm to itself due to its need to protect the public purse, and also to Halo. Therefore, the decision to apply the exemption in Section 43(2) for prejudice to commercial interests to withhold the information was made.
12. The Commissioner is satisfied first that the harm the Health Board envisages relates to commercial interests principally those of the provider.
13. In its submission to him, the Health Board has explained that disclosure would impact the contractor's commercial interests, potentially

impacting its ability when tendering for new work with other client bodies.

14. Disclosure could also lead to those who tender for work being less willing to work with the Health Board in the future. This would be likely to prejudice the Health Board's commercial interests and ability to attract competitive tenders in future.
15. The Commissioner therefore accepts that a causal link exists between disclosure and commercial prejudice.
16. Finally, the Commissioner accepts the Health Board's position that the envisioned prejudice would be likely to happen i.e. it is more than a remote, hypothetical possibility. The Commissioner's decision is therefore that the exemption at section 43(2) is engaged, and he will go on to consider the associated public interest test.
17. In their request for an internal review the complainant pointed out their concerns that the Health Board had chosen a provider outside of the standard whole of Wales system and had therefore spent taxpayers' money on an additional system.
18. The Health Board made a partial disclosure of information it felt was relevant. However, it maintained section 43 was applicable to the withheld information.
19. The complainant emphasised that: "I have requested costings information to a non-standard piece of software that has been purchased as a vanity project. The health board are refusing to tell me the ongoing cost of this software. There is already national software in place to handle these tasks and so taxpayers' money is being wasted on software that has no benefit to the users or indeed patients."
20. As well as the complainant's specific public interest arguments for the information's disclosure above, there is a general public interest in public authorities being open and transparent.
21. Each request has to be considered on its own merits on a case-by-case basis. In the Commissioner's view, there is also a public interest in the cost-effective delivery of services both locally and nationally. There is, also a wider public interest in their being a choice of providers working in this specialist marketplace and in those organisations being able to compete for work fairly.
22. The Health Board argued that: "It is not in the public interest for a national organisation such as the NHS to be prejudiced when engaging in commercial activity. Disclosure would lead to a risk of the NHS being unable to effectively commission services for patients."

23. It further explained: "Whilst disclosure may give the public an insight in to how money is being spent on new IT systems there are other avenues in which NHS spending is being scrutinised and made transparent, i.e. published budgets for general spending within the NHS.

Therefore, in considering the balance it is considered that the public interest lies against disclosure."

24. The public interest in transparency is partially met through the information that the Health Board provides publicly on its website and its accountability to budgets derived from the tender process and funded by the public purse.

### **Balance of the public interest**

25. The Commissioner has carefully considered the balance of the public interest in this case. He has weighed the public interest in obtaining value for money against the argument that the degree of financial freedom the Health Board has means that transparency is vital. He has also factored in the public interest in allowing Halo to remain competitive with its competitors. This decision is finely balanced, but he has made the decision that the remaining details should be disclosed.
26. Furthermore, whilst the Commissioner accepts the likelihood of prejudice and causal link above, he does not feel this is enough to outweigh the greater public interest in disclosure.
27. The Health Board has provided very limited public interest arguments for withholding the requested information. The complainant's view that this information should be scrutinised for the reasons given in paragraphs 17 and 19 are more persuasive.
28. After reviewing all the information available to him and considering the public interest arguments both for and against, the Commissioner has determined that the public interest favours disclosing the requested information as detailed in paragraph 5 in this case.

## Right of appeal

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29. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals  
PO Box 9300  
LEICESTER  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

## Signed

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**