

Reference:	FOI.3953.20
Subject:	Elective Orthopaedic Procurement
Date of Request:	8 September 2020

Requested:

Can you please provide the following:

1. Who are your contracted Hip & Knee Prosthesis contracted providers?
2. What are the current contract dates including extensions for your Hip & Knee Prosthesis Procurement?
3. What is your chosen procurement route and who is your procurement partner (if applicable) for Hip & Knee prosthesis purchase?
4. What is the contract value (£)/agreement (market share) for hip replacements with your current providers?
5. What is the contract value (£)/agreement (market share) for knee replacement procurement with each your current providers?

Response:

1. Hywel Dda University Health Board (UHB) confirms its current contracted hip and knee prosthesis providers are Stryker, Zimmer and Johnson & Johnson.
2. The UHB confirms that its current hip and knee prosthesis contract end date is 1 May 2021.
3. The UHB confirms that the procurement department within NHS Wales Shared Service (NWSSP) procures hip and knee prosthesis via the All Wales Joint Replacement Framework agreement.
4. & 5. As the financial costs requested from the UHB relates to third parties, the UHB considers that Section 43 of the Freedom of Information Act 2000 applies, as answering would be Prejudicial to their Commercial Interests. Section 43(2) exempts information, disclosure of which would or would be likely to prejudice the commercial interests of any person, in this case the provider listed above. Commercial interests may be prejudiced where disclosure would, or would likely to:
 - Weaken a company's position in a competitive environment by revealing market sensitive information or information of potential usefulness to its competitors.
 - Damage a company's business reputation or the confidence that customers/users, suppliers or investors may have in it.

This exemption is qualified; therefore, even if information falls within Section 43, public authorities must then apply the public interest test set out in Section 2(2)(b). The information can only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosure.

The UHB has therefore considered the following:

In favour of disclosure:-There is a public interest in transparency and in the accountability of public funds. Furthermore, it is in the public's interest that public funds be used effectively and that public sector bodies obtain the best value for money when contracting for the provision of services. Private sector bodies engaging in commercial activities with the public sector must expect some information about those activities to be disclosed.

Against Disclosure:- Disclosure of this information would have a direct impact and cause substantial harm to the suppliers as it would disclose their pricing and products/services provided to the UHB, and it would be likely that this would damage their ability to work within a highly competitive sector. The information being requested is likely to be used by their competitors to gain a competitive advantage.

It has therefore been decided above that releasing the information under the Freedom of Information Act 2000, to which the UHB is subject, will give an unfair advantage to the suppliers' competitors. The UHB believes that there is wider established public interest in companies not being prejudiced merely because they have contracted with a public sector body, and that there is a public interest in ensuring that there is competition for public sector contracts.

Decision: - The UHB considers that the public interest in withholding the contract values is greater than the interests in disclosing it and thereby giving unfair commercial advantage to competitors of Stryker, Zimmer and Johnson & Johnson to which this information concerns.