

Reference:	FOI.2397.20
Subject:	Unlicensed medicines
Date of Request:	28 January 2020

Requested:

Please could you supply us with the following information for the period of December 2018 to December 2019 with the purchases of Unlicensed Medicines and UK bespoke special formulations by the Trust.

1. Name and pack size of medicine (generic and propitiatory name if applicable)
2. The number of packs procured broken down by month as above
3. The total cost of the 12 month period for each medicine to the Trust.

Could I please have the output in Excel or CSV format.

For the purchasing of Unlicensed Medicines and UK Unlicensed Specials, please could you advise if you plan to publish any contract, tender or Framework during 2020 and 2021?

If this is the case, please could you also advise where we should register to take part in this process?

Response:

Hywel Dda University Health Board (UHB) has provided the name, pack size and quantity of each pack procured between 1 December 2018 and 31 December 2019 within Attachment 1.

The UHB considers that Section 43 applies to your request for the UHB's monthly expenditure on each product, as answering would be Prejudicial to its suppliers' Commercial Interests. Section 43(2) of the Freedom of Information Act 2000 exempts information, disclosure of which would or would be likely to prejudice the commercial interests of any person, in this case the suppliers listed above.

Commercial interests may be prejudiced where disclosure would, or would be 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 listed as it would disclose their pricing, and this 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, 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 UHB's monthly expenditure on each of the medications is greater than the interests in disclosing it. As using this figure along with the number of packs procure, you would be able to calculate the current unit cost, which would give competitors an unfair commercial advantage.

The UHB can confirm that it does not have any current intentions to publish a tender for the purchasing of unlicensed medicines.