

Public Interest Test

Date: 23 December 2019

Our Ref: **FOI 7107**

Freedom of Information (England) Act 2002 – Section 43 Public Interest Test

Background

Having established that a qualified exemption definitely applies to a particular case, WHCCG must then carry out a Public Interest Test to identify if the public interest in applying the exemption outweighs the public interest in disclosing it. In other words, unless it is in the public interest to withhold the information, it has to be released. Although precedent and developed case law will play a part in this, individual circumstances will vary and each case will need to be considered on its own merits.

In applying the Public Interest test, please note the following:

- Potential or actual embarrassment to or loss of confidence in the council is not a valid factor
- The fact that the information is technical, complex to understand and may be misunderstood is not of itself a reason to withhold information
- The potential harm of releasing information will reduce over time and should be considered at the time the request is made rather than by reference to when the relevant decision was taken originally

A decision not to release information may be perverse - i.e. a decision to withhold information because it is not in the public interest to release it, itself could result in harm to public safety, the environment or a third party.

Question that requires a public interest test:

Do you currently commission a community based MSK service? Estimated contract value?

What was the CCG total spend on MSK services in the last financial year?

Do you currently commission an IAPT service? Estimated contract value?

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Please add factors to take into account when weighing the public interest in the table below:

In the first line are some possible reasons to think about

FOR DISCLOSURE	AGAINST DISCLOSURE
1. To improve the accountability and transparency of the CCG in its use of public funds and/or help to show that it obtains value for money	To disclose risks serious jeopardy to the contractual arrangements under which the CCG currently commissions and in the future seeks to re-procure MSK

	services in terms of securing value for money from potential providers of the service.
	The annual contract for the service ends in March 2020 and contractual negotiations are ongoing at this stage, therefore the details of service specification and contract value are commercially sensitive.

Please return this form as a matter of urgency to whccg.foi@nhs.net