

Our Ref: 431/2021  
March 2021

## Re: Your request made under the Freedom of Information Act 2000

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Dear Sir/Madam,

Please consider this request to fall within the remit of the Freedom of Information Act 2000.

The reduction in surgical operations performed by the Trust since the onset of the Coronavirus pandemic in March 2020 is clear and well documented.

I understand that the provision of the Trust's decontamination and sterilisation services for reusable surgical instruments is contracted to a 3rd party provider ("3P") and consequently the reduction in operations will have caused a reduction in decontamination and sterilisation activities for the 3P.

I also understand that the contract with the 3P will probably contain standard clauses that offer protection to the Trust and 3P in the event that the actual level of activity falls below a certain threshold of expected, or normal, activity. These clauses are often described as "Minimum Service Payment" ("MSP") levels or thresholds or similar, and their purpose is to guarantee a minimum payment from the Trust to the 3P in the event that the threshold of normal activity is not reached.

These thresholds are often expressed as a percentage i.e. a MSP of 90% to ensure a guaranteed payment of 90% of normal charges, even if the actual activity falls below that 90% threshold.

The result is therefore that public money is likely to be expended to support a service which is not actually required by the Trust and which may not be delivered by the 3P.

Consequently, I would be grateful if you could please provide me with the following information for your Trust under the Freedom of Information Act:

- 1) The volume of trays or reusable surgical instrument sets processed by the 3P which represent the 'threshold' or 'normal' level of business and against which the MSP is calculated.
- 2) The level of your Trust's MSP threshold, or equivalent clause or mechanism, expressed as a percentage of normal 3P charges for decontamination and sterilisation services:

> For example, "a MSP, or equivalent, of x% of normal charges"

**We are not prepared to disclose this level of information, as it is exempt from answering under s.43 (2) of the Freedom of Information Act (FOIA). The publication of this data would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it)**