

[REDACTED]

Date	18 May 2026
Your Ref	FOI-2026-3345
Our Ref	FOI-2026-3345

Enquiries to [REDACTED]  
Email [psd.foi@nhs.scot](mailto:psd.foi@nhs.scot)

Dear [REDACTED]

**Freedom of Information Reference FOI-2026-3345**

I refer to your Freedom of Information (Scotland) Act 2002 (FOISA) request that we received on 20 April 2026 requesting the following information:

**We refer to our letter of 16 April and your response of 17 April. For ease we adopt the definitions contained in our letter of 16 April unless context requires otherwise.**

**2 - Our client requires that the Authority produce:**

**2.1 - The full evaluation records, including all notes, internal correspondence and minutes of discussions, together with any other information held by the Authority relevant to the evaluation of tenders, in order that it can properly understand the true reasons for the outcome communicated in the 15 April Standstill Letter.**

**2.2 - Any internal correspondence relating to reasons for scores given in the 1 April Standstill Letter and/or to the preparation, drafting or content of the 15 April Standstill Letter.**

**2.3 - All correspondence between the Authority and Quantum (including any third party acting for or on behalf of Quantum) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract.**

**2.4 - All correspondence between the Authority and ITH Pharma (including any third party acting for or on behalf of ITH Pharma) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract.**

**2.5 - All internal documents, including evaluation records (of all submitted tenders), notes, internal correspondence and minutes of discussions, relevant to the original decision to award Lot 1 to our client.**

**2.6 - All internal material concerning the decision to withdraw the award of the 2025 Procurement and go back out to tender, (together the "Requested Material").**

Chair Mr Keith Redpath  
Chief Executive Professor Karen Reid

**3 The Requested Material is required for the purposes of the legal proceedings BHL intends to bring against the Authority during the standstill period, as set out clearly in our letter of 16 April. On that basis we consider that we should be provided the Requested Material in its entirety as soon as possible. Our client has set out a prima facie claim and the Requested Material is relevant to and necessary for the pursuit of that claim. We do not consider there to be any basis to delay providing the Requested Material, including by the Authority choosing to apply FOI processes rather than promptly providing the required information.**

**4 Whether or not an exemption is potentially available to the Authority under the Freedom of Information (Scotland) Act 2002 ("FOISA"), the Authority is not prevented by FOISA from disclosing the Requested Material and should do so where it is relevant and proportionate as part of pre-action disclosure. In any event, though, the Authority is not entitled to decline to provide any of the Requested Material other than by reference to a relevant and applicable exemption under FOISA**

We have now completed the search of our records and can provide you with the following information:

**2.1 - The full evaluation records, including all notes, internal correspondence and minutes of discussions, together with any other information held by the Authority relevant to the evaluation of tenders, in order that it can properly understand the true reasons for the outcome communicated in the 15 April Standstill Letter.**

This information is being withheld under Section 33 (1) (b) of the Freedom of Information Scotland Act, 2002 (FOISA). Further detail is provided in the **Explanation of Exemptions** below.

**2.2 - Any internal correspondence relating to reasons for scores given in the 1 April Standstill Letter and/or to the preparation, drafting or content of the 15 April Standstill Letter.**

We have provided Appendix 1 - Standstill Recommendation NP38626 Compounded Aseptic Medicines\_Redacted. Please note that parts of the documentation have been redacted under Section 33 (1) (b) of FOISA to remove commercially sensitive information. Further detail is provided in the **Explanation of Exemptions** below.

**2.3 - All correspondence between the Authority and Quantum (including any third party acting for or on behalf of Quantum) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract.**

Please find attached appendices 2 – 7. This is all correspondence between Public Services Delivery Scotland (PSDS) formerly National Services Scotland (NSS) and Quantum (including any third party acting for or on behalf of Quantum) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract.

Please note that the documentation has been redacted to remove Commercially Sensitive information under Section 33 (1) (b) of FOISA. Further detail is provided in the **Explanation of Exemptions** below.

Under Section 38 (1) (b) of FOISA, which exempts third party personal data from disclosure where release would contravene the data protection principles set out in the UK GDPR and Data Protection Act, 2018. Redaction has been carried out on names and direct contact details as this group of individuals have no expectation that their personal information would be disclosed into

the public domain. Disclosure of this personal information would contravene Article 5(1)(a) of the UK General Data Protection Regulation, where personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.

**2.4 - All correspondence between the Authority and ITH Pharma (including any third party acting for or on behalf of ITH Pharma) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract.**

Please find attached appendices 8 – 20 which provide you with correspondence between PSDS formerly NSS and ITH Pharma (including any third party acting for or on behalf of ITH Pharma) between 25 November 2025 and 16 April 2026 in relation to the 2025 Procurement, the 2026 Procurement, the Contract, or the subject matter of the Contract. Please note that the documentation has been redacted to remove Commercially Sensitive information under Section 33 (1) (b) of FOISA, see the **Explanation of Exemptions** below.

Under Section 38 (1) (b) of FOISA, which exempts third party personal data from disclosure where release would contravene the data protection principles set out in the UK GDPR and Data Protection Act 2018 (as discussed above in Section 2.3).

**2.5 - All internal documents, including evaluation records (of all submitted tenders), notes, internal correspondence and minutes of discussions, relevant to the original decision to award Lot 1 to our client.**

We have provided Appendix 21 - Standstill Recommendation NP38625 Compounded Aseptic Medicines 2025\_Redacted. Please note that the documentation has been redacted to remove Commercially Sensitive information and any other relevant information under Section 33 (1) (b) of FOISA. **Explanation of Exemptions** below.

**2.6 - All internal material concerning the decision to withdraw the award of the 2025 Procurement and go back out to tender, (together the "Requested Material").**

This information is being withheld under Section 36 (1).

The information requested relates to the existing tender process and court proceedings. Therefore, there is an inherent public interest in maintaining the right to confidentiality of communications between a legal adviser and their client on administration of justice grounds. There is a greater public interest in withholding the information to ensure fairness in the tender exercise and court proceedings. **Explanation of Exemptions** below.

**Explanation of Exemptions**

**Section 36 (1)** The request is exempt on the right of confidentiality. Information in respect of which a claim to confidentiality of communication could be maintained in legal proceeding is exempt information and relates to legal professional privilege.

Section 36 (1) is subject to the public interest test. While there is a public interest in transparency and accountability, particularly in relation to procurement decisions and the withdrawal and re-tendering of a contract, there is a strong and well-established public interest in maintaining the confidentiality of legal advice. Disclosure would undermine the ability of the authority to tender

with suppliers and could prejudice substantially its position in any current or potential legal challenge linked to the procurement.

On balance, it is considered that the public interest in maintaining the exemption outweighs that in disclosure, and the information has therefore been withheld.

**Section 33 (1) (b)** Disclosure under this Act allows withholding information, if release of that information would, or would be likely to prejudice substantially the commercial interests of any person.

The information that is being withheld relates to an ongoing tender process. The release of this information is likely to substantially prejudice the commercial interests of companies involved in this process. Therefore, our assessment is that the decision to withhold certain information that could potentially become known to a competitor and thereby give a competitor a commercial advantage over a supplier and capable of causing substantial harm to that supplier's commercial interests is relevant to the information requested.

Also considered was the passage of time in relation to the tendering exercise. As the tender is currently ongoing, PSDS has deemed that the requested information will not have lost its commercial value and release will harm both PSDS and tendering organisations, however it is acknowledged that the potential harm will diminish over time.

Again on balance, it is considered that the public interest in maintaining the exemption outweighs that in disclosure, and the information has therefore been withheld.

From 01 April 2026, NSS and NHS Education for Scotland (NES) joined to form PSD Scotland, enabling transformation in health, social care, and the wider public sector. More information regarding PSD Scotland can be found at the following URL:

[Public Services Delivery Scotland \(PSD Scotland\)](#)

I trust you will find the information of assistance and if you require any further information, please do not hesitate to contact me using the email address [psd.foi@nhs.scot](mailto:psd.foi@nhs.scot).

If you are unhappy with any aspect of how we have dealt with your request, you can make representations to us asking us to review the handling of your request. Please write to the Associate Director Corporate Governance using the email address [psd.foi@nhs.scot](mailto:psd.foi@nhs.scot) within 40 working days of the date of this correspondence.

If after a review you are still unhappy, you also have the right to apply to the Scottish Information Commissioner, who can be contacted at Kinburn Castle, St Andrews, Fife, KY16 9DS, or via their [online Appeal form](#).

Yours sincerely,

