

Julian Todd
request-21448-8190c8cb@whatdotheyknow.com

Our Reference: 46933

8th January 2010

Dear Mr Todd,

I am writing with reference to your request for information regarding the Crime Mapping website, dated 20th October 2009 made under section 1(1) of the Freedom of Information Act.

You asked for the following information:

- * The full contract signed with RKH for the delivery of the police crime map

I can confirm that the NPIA holds the information you have requested, however some of the details are being withheld as we consider it to be exempt from the right of access in accordance with sections 31(1) Law Enforcement, 43(2) Commercial Interests, and Section 40(2) by virtue of Section 40(3)(a)(i) of the Freedom of Information Act.

Application of Exemptions

Section 43 (Commercial Interests) & Section 31 (Commercial Interests)

These exemptions are prejudice based, qualified exemptions and therefore the legislators accept that there may be harm if information falling within the scope of the exemptions were to be released. However, we are required to evidence the harm and consider the balance of public interest in releasing the information.

Section 40 – (Personal Information)

This exemption is a class based, absolute exemption and there is no requirement to establish the harm or the public interest. The NPIA believes that this exemption applies as it contains personal details of individuals, who are not members of the NPIA, and have an expectation that their details would not be released. The contract also contains personal information on junior NPIA staff, which is also considered personal information and exempt from disclosure. Therefore, it would

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contravene the first principle of the Data Protection act, namely – ‘Fair and lawfully processed’, if these details were released, also none of the conditions in Schedule 2 are met.

Please see the table below to see where and what exemption has been applied.

Document & Section/Page	Exemption
RKH All Schedules – all footers	Section 40(2)
RKH Schedule 2.6 (Insurance Requirements – Section 2	Section 43(2)
RKH’s Proposal forming part of Schedule 4.1 (hereafter “National Crime Mapping”) - Page 22	Section 40(2)
National Crime Mapping - Pages 31-33	Section 31(1)
National Crime Mapping – Page 34	Section 43(2) para 3 &4 & Section 31(1)
National Crime Mapping – Page 36-37	Section 31(1)
National Crime Mapping – Pages44 -54	Section 43(2)
National Crime Mapping – Page 55	Section 31(1)
National Crime Mapping – Page 59	Section 43(2)

Table 1.

Harm under Section 31 Law Enforcement

The RKH proposal which forms part of the contract contains details of the security, location and technologies used to create and maintain the Crime Mapping website, which would aid any attempt to disrupt or stop the service provided.

Public Interest Test under Section 31 Law Enforcement

Section 31 of the Freedom of Information Act is a qualified exemption and the Public Interest Test is assessed below. This considers whether or not it would be beneficial to the community at large to disclose the requested information.

Consideration favouring disclosure

Disclosure of these details would enable public scrutiny of the security measures and technologies used to create and maintain the website. This would demonstrate whether the security measures and technologies in place are proportionate to the costs involved.

This would also demonstrate that the NPIA have conducted the procurement of this service using current legislation.

Considerations favouring non-disclosure:

The release of these details would aid any illegal entry into the website to disrupt or stop the service. Denial of service, or the hacking of web sites are common place, and the Crime Mapping service could be considered a potential target.

Disclosure of these details would also require a complete review of the security measures in place, and counter measures or enhanced security features added would be at cost to the public purse.

Harm under Section 43 (Commercial Interests)

The contract contains insurance premiums which may have a detrimental effect on future bidders of NPIA contracts and increased premiums.

The contract also contains suggested future developments from RKH, for NPIA to disclose this information under this FOI would put RKH at a commercial disadvantage.

Public Interest Test under Section 43 (Commercial Interests)

Section 43 of the Freedom of Information Act is a qualified exemption and the Public Interest Test is assessed below. This considers whether or not it would be beneficial to the community at large to disclose the requested information.

Consideration favouring disclosure:

Disclosure of the redacted part of the contract would further demonstrate that the NPIA have conducted the procurement of this service using current procurement regulations and best practice guidance.

Considerations favouring non-disclosure:

Insurance premiums are always reflected in the price paid for a service as a supplier looks to off-set that risk. If you set the covenant too high above statutory minimums or normal industry standards and the fee for the service increases, set it too low and you expose yourself to a risk that you can not then properly offset in the event of a problem.

Secondly, if 3rd parties with whom NPIA has done or might do business with are able to look at the limits that we have set, they may form a view that NPIA is unnecessarily risk averse and is thereby demanding excessive insurance cover then not only can this be reflected in the premiums (and the fees) but it might (a) dissuade companies from bidding or alternately they may find that they are unable to secure insurance cover to the levels demanded on acceptable terms or (b) give

rise to claims that the insurance levels demanded of them were proportionately too high or too low.

RKH were invited to include in their Proposal which led up to, and is now part of, the Contract to offer suggestions about where and how the service might in future be extended beyond the original scope. It was important to delineate what should be in the original core service so that the acceptance criteria were clear and that neither party were disadvantaged through the process commonly known as "scope drift". RKH invested, at their risk, both time and intellectual capital covering certain future enhancements and in addition they retain copyright of this material as it falls within the definition of Contractor's Background IPR as some, if not all, could be shown to have existed before NPPIA was asked to co-ordinate and develop a standard from the 30 pre-existing arrangements that RKH had in place with Police Forces.

Companies who had acted as a sub-contractor in previous arrangements but who in NPPIA's opinion did not have the necessary capability to offer the liability to offer a solution that could operate to the national scale, nevertheless NPPIA have redacted their name(s) as we have neither their consent to mention their name nor do we believe it to be in their commercial best interests to make public the fact that they no longer were trading with another private company

Balancing Test

The commercial advantage loss and the increased risk of premiums for contract submitted to the NPPIA, outweigh any public openness to the redacted material within the contract. The NPPIA are subject to review by the National Audit Office to establish compliance with regulations and best practice.

Decision

In this case I have decided that the commercial interests and security of the Crime Mapping website should be protected and the appropriate sections have been redacted from the documents.

Your right to complain

We take our responsibilities under the Freedom of Information Act seriously but, if you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. We will investigate the matter and endeavour to reply within 3 – 6 weeks. You should write to:

National Policing Improvement Agency

David Horne
Director of Resources
National Policing Improvement Agency
10-18 Victoria Street
London
SW1H 0NN

E-mail: david.horne@npia.pnn.police.uk

If you are still dissatisfied following our internal review, you have the right, under section 50 of the Act, to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect you to have exhausted the complaints procedures provided by the NPIA. The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Further information about the NPIA is routinely published on our website at www.npia.police.uk or through our publication scheme. If you require any further assistance in connection with this request please contact us at our address above.

Yours sincerely,



Sue Moffatt
Head of Commercial and Procurement Unit