

**My Ref:** IG-13123  
**Your Ref:**  
**Contact:** Freedom of Information Team  
**Email:** [FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk)



**Nottingham**  
**City Council**

**Freedom of Information Team  
Information Compliance  
Legal & Governance**  
2<sup>nd</sup> Floor  
Loxley House  
Station Street  
Nottingham  
NG2 3NG

Requester

At contact address specified for request number above

08 January 2020

**Tel:** 0115 876 4376

**Email:**

[FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk)

[www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

Dear Requester

### **Request under the Freedom of Information Act 2000 (the Act)**

The council has considered your request which was received on 9 December 2019 and our response to your questions is shown below.

*I would be most grateful if you would provide me, under the Freedom of Information Act, details in respect to the contract below.*

*Fire and Intruder Alarms and CCTV/Door Entry Maintenance, Service and Repairs*

*The details we require are:*

- *Suppliers who applied for inclusion on each framework/contract and were successful & not successful at the PQQ & ITT stages*
- *Actual contract values of each framework/contract (& any sub lots)*
- *Start date & duration of framework(s) Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?*
- *Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?*
- *Who is the senior officer (outside of procurement) responsible for this contract?*

In accordance with Section 1 (1) of the Act the Authority has a duty to confirm whether it holds the information of the description specified in the request, and if that is the case, to have the information communicated to the requester.

The contract for CCTV and door entry is not held by Nottingham City Council, but by Nottingham City Homes (NCH). Below is the information that NCH have shared with the council:

*Suppliers who applied for inclusion on each framework/contract and were successful & not successful at the PQQ & ITT stages:*



Sensitive information.

*Actual contract values of each framework/contract (& any sub lots)*

Stated contractual value between £80k and £400k.

*Start date & duration of framework*

START 15<sup>TH</sup> Nov 2017 for 3 year plus optional 2 year extension in one year increments.

*Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?*

Yes as above, 2 years in one year increments.

*Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?*

Not as yet as too early in contract to decide.

Regarding details for the Fire and Intruder Alarm contract, please see the attached document labelled '13123 Fire and Intruder Alarm Contract'.

Parts of the attached documents have been redacted to remove personal information related to employees of the council below the level of Head of Service and third parties including house numbers. In accordance with section 40(2) of the Act, the personal information about identifiable living individuals is exempt if disclosure to a third party would contravene one of the General Data Protection Regulations (GDPR) principles. The council have therefore redacted personal information of both junior council employees and employees of third party organisations, as publication would breach the first data protection principle in Article 5 of the GDPR.

Section 40 of the Freedom of Information Act 2000, which states:  
"40 Personal information.

This section has no associated Explanatory Notes

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which does not fall within subsection (1), and

(b) the first, second or third condition below is satisfied.

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

(a) would contravene any of the data protection principles, or

(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR

(general processing: right to object to processing).

(4A) The third condition is that—

(a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in

reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”

The council are required under section 40(2) to take in account the GDPR, in particular Article 4, which states:

“‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”.

The council have considered the principles of the GDPR in our decision as to whether to disclose the redacted information. The redacted information identifies living individuals and is therefore classified as personal data. As the withheld information constitutes the personal data of third parties, the council needs to consider whether disclosure would breach the data protection principles. Principle (a) under Article 5 of the GDPR is the most applicable. When considering whether disclosure of information is a breach of principle (a), the council must consider whether disclosure is lawful and then whether it is fair.

The lawful basis that is most relevant in this case is legitimate interests under Article 6.1(f). The council needs to balance the rights and freedoms of the individuals with legitimate public interest in disclosure. The council does not believe there is any lawful basis to disclose this information in a Freedom of Information response. Unlike a public interest test in the case of section 40(2) there is an assumption against disclosure and therefore a justification is needed for disclosure. The council does not believe there is any significant commercial interest, or societal benefits in disclosing the redacted information of the individuals involved, and your request does not outline any legitimate interests that this information should be disclosed. The council believes disclosure of this information would cause an unwarranted interference with those individuals’ rights.

In addition, the council must also consider whether it is fair in general terms to disclose the information. The council considers it would not be fair to disclose the redacted information of employees of third party organisations. As per guidance from the Information Commissioners Office (ICO), the council should treat all requests for information equally, and the council should only disclose information under the Act if the council would disclose it to anyone else who asked, therefore release of information under the Act should be considered as if it were being released to the world at large. These individuals would not expect their personal information to be disclosed at the time the information was provided and would not expect their personal information to be disclosed to the world at large without their consent.

Regarding council employees, the Information Commissioner’s guidance states ‘It is reasonable to expect that a public authority would disclose more information relating to senior employees than more junior ones...the disclosure must not cause unwarranted interference with the rights, freedoms and legitimate interests of the employee’. It is the council’s general guidance not to disclose personal information related to employees below the level of Head of Service.

The council have therefore determined that in this instance the disclosure of this information to you otherwise than under the Act would contravene Principle (a) of the GDPR – lawfulness, fairness and transparency. Details related to council employees at Head of Service level or above have not been redacted.

In accordance with section 16(1) of the Act, the council has a duty to provide advice and assistance to you, as far as it is reasonable to do so. The council can advise Nottingham City Council does not respond to unsolicited requests regarding sales, procurement and commissioning. Departments must follow a strict procedure as the council has a responsibility to spend public money to achieve the best possible value and outcomes for its citizens whilst maximising the wider social, economic and environmental aims. The council can direct you to the council's website pages for procurement opportunities, events and how to sell to the council, where you can also find the contact details for the Procurement Team including an email address and phone number:

<http://www.nottinghamcity.gov.uk/business-information-and-support/doing-business-with-nottingham-city-council/>

As the council is withholding some information as detailed above under section 40(2) of the Act. Please accept this letter as a partial refusal notice issued in accordance with section 17 of the Act.

You are free to use any information supplied for your own personal use. If the information provided is marked as published under an [Open Government Licence](#) you are free to reuse it, subject to the licence terms. However, if the information is not published under an Open Government Licence and you wish to reuse it, for example, by publishing the information or issuing copies to the public you are required to request permission for re-use of this information under the Re-use of Public Sector Information Regulations 2005 (RPSI). Your RPSI request must be in writing and include your name and address for correspondence, and specify the information you want to re-use and the purpose you intend to use it for.

If you are unhappy with the response provided or with the handling of your request, you can ask for an internal review in writing stating the reasons for your dissatisfaction. Your request for an internal review should be made to the council within forty working days of the date of this letter. Please quote reference IG-13123 in all communications.

You can contact the Freedom of Information Team either by email: [FOI@nottinghamcity.gov.uk](mailto:FOI@nottinghamcity.gov.uk) or writing to the **Freedom of Information Team, Information Compliance, Legal & Governance, 2<sup>nd</sup> Floor, Loxley House, Station Street, Nottingham, NG2 3NG.**

If you remain unhappy after receiving the response to your initial complaint you can request an independent review from the Information Commissioner's Office at **FOI/EIR Complaints Resolution, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.** You may also contact the Information Commissioner's Office by telephone on 01625 545745 or by email at [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk).

Yours sincerely

Freedom of Information Team  
Legal & Governance  
Nottingham City Council