



request-718174-566f0d59@whatdotheyknow.com

Dear Mr Cole Jr...

Freedom of Information Request 6388545

Your request was actioned under the Freedom of Information Act 2000 in which you requested the following information –

'1] Supply all contracts that may have been awarded to SSC as of December. 2019 till 2020 from the Liverpool council.

2] Supply all correspondence from; Liverpool city council assistant director of; Highways & Planning Andy Barr to SSC management group limited; from December 2019 till December 2020.

3] Did Andy Barr take any part/ role/ in awarding SSC any building contracts/ highway contracts while in public office for the Liverpool city council.

4] Has Andy Barr worked with David Ian Anderson or passed off any Liverpool city contracts to his company [SSC]

5] What would be the total amount in invoices sent into the Liverpool city council for work performed by SSC.'

Response

Liverpool City Council would advise as follows –

1. Information relating to contracts and procurements undertaken by the City Council including the process for the award of such contract and including details of contracts awarded, are already in the public domain and reasonably accessible to you. In accordance with the application of Section 21 Freedom of Information Act 2000 we would refer you to the following weblink – <https://www.the-chest.org.uk/>
2. In relation to this element of your request, and reflecting that such correspondence if extant would, by virtue of the professional role responsibility and seniority of individuals concerned comprise information of a sensitive commercial and financial nature as well as comprising exchanges of legal advice and opinion, due regard has been had to exemptions relating to commercial and financial information.

Section 43 (2) – Sensitive Commercial & Financial Information

This exemption is considered relevant on the basis that such exchanges of correspondence are inherent by their nature and seniority of parties wholly and directly relating to the commercial and financial status and activities of both parties and if disclosed may potentially result in significant prejudice. This exemption requires the application of a public interest test, an explanation and details of which are as set out.

In considering the public interest test and its application in the context of the information retrieved, as is standard practice when dealing with all such issues, the City Council has carefully considered the factors both for and against disclosure of the information held.

The City Council does not consider that generic public interest arguments are relevant in the majority of cases as indeed this one – rather, the specific circumstances and nature of the information enable this to be focused and therefore more refined.

Public Interest Test

Factors in favour of disclosing the information –

- (i) transparency of the process with which the City Council negotiates with third parties in relation to contractual services within the city.

Factors against disclosure of the information –

- (i) information identified as a result of comprehensive searches in its entirety comprises financial and commercial information, specifically relating to the third party company. If disclosed this would provide extensive information as to the commercial considerations of what is a third party wholly private organisation.

Whilst there is an expectation that any communications with public authorities may be subject to disclosure under Freedom of Information legislation, this does not extend to specific information relating to, comprising of or which directly impacts the commercial and financial considerations of third party companies.

The disclosure of information of this type relating to either party would compromise and inhibit the City Council's ability to negotiate or explore matters with any third party organisation and is anticipated to give rise to an actionable breach of confidence;

- (ii) the appointment and selection of potential commercial and contractual partners or award of contracts thereof are subject to detailed and extensive legislative and constitutional frameworks. The City Council operates robust and effective governance arrangements governing due diligence and financial propriety requirements which are a matter of public record and the subject of regular, detailed reports to Audit & Governance Select Committee, meetings of which are livestreamed;
- (iii) legislative and regulatory functions relating to audit requirements are clearly defined in national legislative policy and procedures, these being discharged for purposes of scrutiny through the above Select Committee. The use of Freedom of Information legislation is not intended to inhibit or otherwise prejudice the ability of public sector organisations and it is for this reason that robust audit and governance frameworks operate for this purpose; and
- (iv) the accounting and governance frameworks of the City Council including commercial frameworks and use of funding are subject to detailed external audit and examination in order to ensure compliance with relevant legislative and constitutional provisions.

A key factor in the application of the Exemption was that of the ability of an organisation such as Liverpool City Council to undertake and ultimately engage in any form of negotiation or dialogue and ongoing monitoring of contracts. Were substantial and detailed commercial and financial information to be routinely disclosed in the manner sought in this request, then the ability of the City Council to achieve the best possible commercial and financial outcomes for the use of public funds as well as to comply with the public sector best value duty.

In addition, the ability of the City Council to develop and progress proposals for the use of land and assets to support physical, economic and social regeneration under its general powers of competence would be fundamentally and irrevocably compromised.

Having carefully considered the above factors, the City Council considers that, at this stage, Section 43 (2) is correctly engaged to all correspondence to which your request relates. This has been applied on the basis that if disclosed this could have a harmful impact on the commercial and financial interests of both parties and give rise to an actionable breach.

3. Information relating to contracts and procurements undertaken by the City Council including the process for the award of such contract and including details of contracts awarded, are already in the public domain and reasonably accessible to you. In accordance with the application of Section 21 Freedom of Information Act 2000 we would refer you to the following weblink – <https://www.the-chest.org.uk/>
4. Neither the City Council, its Officers or Agents ‘pass off’ contracts.
5. Liverpool City Council regularly publishes information relating to expenditure in accordance with its obligations under the Transparency Code. As such and in accordance with the application of Section 21 Freedom of Information Act 2000 we would refer you to the following weblink – www.liverpool.gov.uk

This concludes our response. This response also serves as a Section 17 Notice following the application of Sections 21 and 43(2) Freedom of Information Act 2000.

The City Council will consider appeals, referrals or complaints in respect of your Freedom of Information Act 2000 and you must submit these in writing to Informationrequests@liverpool.gov.uk within 28 days of receiving your response. The matter will be dealt with by an officer who was not previously involved with the response and we will look to provide a response within 40 days.

If you remain dissatisfied you may also apply to the Information Commissioner for a decision about whether the request for information has been dealt with in accordance with the Freedom of Information Act 2000. The Information Commissioner’s website is www.ico.gov.uk and the postal address and telephone numbers are:- Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Telephone: 0303-123-113. Email – mail@ico.gsi.gov.uk (they advise that their email is not secure)

Yours sincerely
Information Team