



## Freedom of Information Request 1356/18

**Response Date: 14<sup>th</sup> December 2018**

I am writing to you under the freedom of information act 2000 to request the following information:

- Q1. Who is your current supplier of Forensic Medical Services to Custody Suites, to include Forensic Medical Examiners and Custody Nurses?**
- Q2. When does your current contract expire for the supply of these services / medical personnel?**
- Q3. What is the annual cost of this contract to supply FMEs and Custody Nurses?**
- Q4. Who is responsible for the service standards and maintenance of this contract?**
- Q5. How many times in the last 12 months has your contract provider failed to provide an FME or Custody Nurse for any given shift (12 hour coverage period)?**
- Q6. A. Do you use agencies to provide Forensic Medical Service personnel in the event of staff shortages?  
B. If so, please provide the average charge for each staff group in 2018?**

### RESPONSE

#### Question 1

Mitie Care and Custody.

#### Question 2

The end of November 2019.

#### Question 3

The annual cost of the whole contract is £1,759,207 and this includes elements other than custody provision.

Your request for further breakdown of costs has been considered and I am not obliged to supply this information. The following exemption applies:

#### **Section 43(2) – Commercial Interest**

Section 43 is a qualified class based exemption which requires the authority to consider the public interest in disclosure.

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in Welsh will not lead to a delay in responding.



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### Evidence of Harm

Under the Freedom of Information Act (FOIA) 2000, the commercial interest exemption (S.43) states that information is exempt information if it constitutes a trade secret or if its disclosure under the FOIA would, or would be likely to, prejudice the commercial interests of any person.

A disclosure in response to a Freedom of Information request is not a disclosure to the individual applicant but a release into the public domain. Publically disclosing details of the component costs of Force Medical Examiners and Nurses would be likely to prejudice Mitie's ability to successfully engage in a competitive market by allowing competing firms access to strategic commercial and business information which has been provided in confidence to South Wales Police. This would give an unfair advantage to competitors in submitting and negotiating future tenders with South Wales Police or other public bodies.

In addition, with regards to South Wales Police's own commercial interest, we consider that disclosure would or would likely prejudice South Wales Police's business reputation and confidence that suppliers, contracting parties and investors may have. This would have a detrimental impact and threaten South Wales Police's ability to successfully participate in commercial activity, in particular the ability to negotiate best value terms of contract in the best interest of South Wales Police and the public.

### Public Interest Test

#### Factors Favouring Disclosure

Disclosing the requested information would promote openness and transparency in relation to commercial duties and may contribute to public debate.

#### Factors Favouring Non-Disclosure

The police service has a moral duty to protect the sensitive commercial information it holds about any private company it has dealings with. Disclosure would be likely to prejudice the commercial interest of the company involved and affect future procurement for the Force as the information has been provided to us in confidence and is of a commercially sensitive nature. Disclosure is also likely to damage the relationship between South Wales Police and the supplier involved. This may in the future reduce the number of companies tendering therefore reducing the opportunities for South Wales Police to secure the best value.

### Balancing Test

Before deciding which of these arguments is most compelling, a balancing test needs to be completed. In this case, the key factor favouring non-disclosure is the interest of third parties and this needs to be weighed against the key factor favouring disclosure which concerns transparency.

While it is accepted that accountability and demonstrating transparency in the use of public funds is a strong factor favouring disclosure, in this case the requested information concerns the potential disclosure of information which would be detrimental to a supplier's ability to compete fairly when bidding for future tender opportunities.

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I have therefore determined that greater weight must be given to protecting the commercial interests of the third party and South Wales Police in this instance.

On balance at this time the public interest test does not favour disclosure.

In accordance with the Freedom of Information Act 2000, this letter acts as a refusal notice for this part of your request.

### Question 4

Clinical governance is provided by Mitie Care and Custody; the contract is managed by South Wales Police Custody Services Department with South Wales Police Procurement Support.

### Question 5

No failures have occurred during the time period specified.

### Question 6

South Wales Police does not need to consider agency backfill as the contractor provides resilience.

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