

Our ref: 21653889  
17 March 2021

**Mr P Swift**  
???

Account reference:request-729206-218df3c1@whatdotheyknow.com

## **Freedom of Information Act 2000**

Dear Mr Swift

I can confirm that the information requested is held by Birmingham City Council. I have detailed below the information that is being released to you.

### **Request**

Dear Birmingham City Council,

I refer you to the responses at  
[https://www.whatdotheyknow.com/request/kier\\_highways\\_ltd](https://www.whatdotheyknow.com/request/kier_highways_ltd)

It appears Kier Highways are not complying with the contract but charging those unfortunate enough to hit Council property using a different, higher schedule of rates than those agreed. Contrary to your account, Kier are using CECA rates which appears to contradict your 'not profiting from claims' response. There is a lack of the transparency you convey.

The situation is simple; either Kier are complying with the account you have supplied and utilising agreed rates or they are not. The rates Kier are using (KSoR) can be found here <http://www.englandhighways.co.uk/dcp-claims-and-the-kier-schedule-of-rates/>

1. If, as you state Kier are using agreed rates, it follows they should be those at the above link. In turn, the rates being in the public domain, there is no commercial sensitivity attached and they should be released.

2. In the alternative, it appears Kier are acting contrary to the contract, using contract non-compliant rates (again) and the Council are withholding information to assit this conduct.

I ask to be provided the following:

### **Business and Customer Support**

Inclusive Growth Directorate  
PO BOX 28  
1 Lancaster Circus  
Birmingham  
B1 1TU

A. Is the schedule of rates at <http://www.englandhighways.co.uk/dcp-claims-and-the-kier-schedule-of-rates/>, that agreed with Kier to be used when billing Third Parties following damage to Council property?

B. Is the above schedule of rates at <http://www.englandhighways.co.uk/dcp-claims-and-the-kier-schedule-of-rates/>, that agreed with Kier to be used when billing the Council following damage to Council property?

C. With regard to the request at [https://www.whatdotheyknow.com/request/kier\\_highways\\_ltd](https://www.whatdotheyknow.com/request/kier_highways_ltd) I ask to be provided all information/exchanges relating to this.

## **Response**

**1. If, as you state Kier are using agreed rates, it follows they should be those at the above link. In turn, the rates being in the public domain, there is no commercial sensitivity attached and they should be released.**

The Birmingham Highways Interim Services Contract (BHISC) between Birmingham City Council and Birmingham Highways Ltd whereby Kier are appointed as Highway maintenance providers is not affiliated with any Kier Highways England contracts. Therefore, the BHISC is not subject to any existing schedule of rates that may be associated with other Kier contracts.

**2. In the alternative, it appears Kier are acting contrary to the contract, using contract non-compliant rates (again) and the Council are withholding information to assist this conduct.**

**I ask to be provided the following:**

**A. Is the schedule of rates at <http://www.englandhighways.co.uk/dcp-claims-and-the-kier-schedule-of-rates/>, that agreed with Kier to be used when billing Third Parties following damage to Council property?**

All rates associated with the BHISC between Kier and BHL and those between BCC and BHL remain commercially sensitive under section 43 of the Freedom of Information Act (FOIA).

**B. Is the above schedule of rates at <http://www.englandhighways.co.uk/dcp-claims-and-the-kier-schedule-of-rates/>, that agreed with Kier to be used when billing the Council following damage to Council property?**

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No – the BHISC is not subject to any Kier Highways England schedule of rates

**C. With regard to the request at**

**[https://www.whatdotheyknow.com/request/kier\\_highways\\_ltd](https://www.whatdotheyknow.com/request/kier_highways_ltd)**

**I ask to be provided all information/exchanges relating to this.**

Please see our previous response that was issued to you on 14/01/2021. All answers remain as previously stated.

Please quote the reference number 21653889 in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within 40 working days from the date this authority issued its initial response to your original letter and should be addressed to:

Corporate Information Governance Team  
PO Box 16366  
Birmingham  
B2 2YY  
Email: [infogovernance@birmingham.gov.uk](mailto:infogovernance@birmingham.gov.uk)

If you are still dissatisfied with the Council's response after the internal review you have a right of appeal to the Information Commissioner at:

The Information Commissioner's Office

Website: [www.ico.org.uk](http://www.ico.org.uk)

I will now close your request as of this date.

Yours sincerely

Jenny Bent  
Business Support Coordinator

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Birmingham  
B1 1TU

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