



Peter Cosgrove
Assistant Executive Director
(Corporate Systems)

Ref: PC/LMc/MT/309

Date: 3rd September 2009

Dear Mr Todd

YOUR REQUEST FOR A REVIEW

I write further to your e-mail of 22 June 2009 when you requested a review of this Council's decision to release a copy of the contract/s signed by Liverpool City Council and BT in 2001 relating to the establishment and duties of Liverpool Direct Limited.

The Council provided a copy of the contract with some details redacted. You requested a review of the decision to redact details in the contract and of the decision to not provide you with a list of reasons specific to each redaction.

I have considered the Council's previous reasoning, the decision notice to which you refer regarding Bristol City Council and the points you raised in your e-mail of 22 June.

I have also requested from BT their detailed consideration of each redaction and their reasons why they consider each clause or specific detail would be likely to cause them commercial prejudice if released.

I have produced a schedule setting out the title of each section of the contract which had been redacted together with the reason considered for this. I enclose a copy of this schedule for your information.

I have concluded that the redactions in the document previously provided to you are justified and that the information falls within exemptions section 41(breach of confidence) and section 43(2) (would be likely to cause commercial prejudice).

I agree with the reasoning contained in the Council's previous response to you dated the 20 May 2009 and would add the following.

The Council has been very careful to disclose as much information as possible. There is no "blanket" exemption being applied to this contract.

Close consultation with BT has taken place to ascertain their view of what may be likely to prejudice their commercial interest.

I am very conscious that the contract was entered into some years ago but am also aware that this Council pays its partner many millions of pounds each year for the services provided further to the contract. The relationship with BT is ongoing and will only flourish if mutual trust confidence and respect for the others position exists.



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Whilst this relationship is ongoing it is not "cozy". The city council and BT are currently closely examining the terms of the contract and the management and delivery of services. The contract also provides for the council to consider from time to time if it would wish to fundamentally review its provisions and establish if a service provider from elsewhere would have advantages. These provisions include termination of the contract.

This ongoing relationship means that the service standards, methods, costs and special clauses negotiated are still relevant to any prospective renegotiation, re-tender or alternative provision in the future.

In addition, BT are clear that the relevant operating methods, service standards, special clauses and costs remain current in the delivery of services operated further to the contract. They are also relevant to the wider market because many councils and private sector companies provide these services on a similar basis to those agreed when this contract was entered into.

Similar opportunities for contracts to provide these services to other Council's are available on an ongoing basis within the market when these contractual provisions are relevant and BT are interested in competing for those contracts.

If the information redacted is disclosed this would be likely to prejudice BT's commercial interests as competitors and prospective customers will be aware what concessions may be negotiated, in service level and price, methodologies and concessions in contractual arrangements.

The commercial prejudice which would be likely to be suffered will impact on BT but also on the ongoing business relationship the Council has with them. This relationship is based on openness, trust and confidence. If this relationship suffers this will prejudice the commercial interest of the Council at a time when increased value for money and efficiency further to the contract is paramount.

I therefore conclude that both BT's and the Councils commercial interest are likely to be prejudiced.

After reaching this view, I needed to consider if despite this, the public interest never the less required disclosure.

I am very aware of the benefits to the public that maybe made from disclosure of information in a competitive market in future procurement and the extent that operators such as BT must be aware of the need to disclose what might otherwise be considered confidential information. However, I am also mindful of the extent of disclosure that the Council has already made of this contract, the extent of the detailed data which is available and the relatively few details which have been redacted.



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I am also mindful that the cost of the contract, the level of council spending and service performance is already available in the public domain, in council reports or through inspection of the Council's accounts.

In essence, the information required to establish how much is spent from the public purse on services from LDL together with the service levels is already available. The additional benefit to the public in disclosing the specific details contained in for example appendices to the contract, whilst being likely to commercially prejudice both BT and the Council would not add a great deal to the public's understanding.

In addition, it is likely that the City Council would suffer commercial prejudice and financial consequence through the risk of a more sensitive and difficult working relationship with less openness, trust and confidence with its partner at a time when the City Council is wanting to considerably reduce the amount of public money spent further to this contract.

This concludes the response to your appeal against the City Council's decision to withhold information relating to your request. May I remind you that, should you remain dissatisfied with the outcome of your appeal, you may apply to the Information Commissioner for a decision about whether the request 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. Fax number 01625 524 510, DX 20819, Telephone 01625 545745.
Email – mail@ico.gsi.gov.uk (they advise that their email is not secure).

Yours sincerely

Peter Cosgrove
Assistant Executive Director



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