



Refusal Notice & Explanation of Section 43(2) - Commercial interest Freedom of Information Act 2000

Section 43 (2) of the Freedom of Information Act is an exemption is engaged where the disclosure of information would, or would likely be to, prejudice commercial interests of any person (including the public authority holding it). When this exemption is engaged, a public authority must evidence the prejudice (harm) that it is envisaged disclosure would, or would be likely to, cause and also balance the public interest in disclosure against the public interest in maintaining the exemption.

In this instance, releasing the information in question would be likely to harm both the council and the companies' concerned commercial interests. This is because it may harm the ability of the council to attract business tender and reduce the competitiveness of tender processes at the council and elsewhere.

There is a public interest in the accountability as to how public money is spent, and to disclose this information would make the council more accountable in this respect.

To release this information is likely to damage the relationship between the council and both current and future suppliers, as supplier will be less likely to enter into contracts with the council (and offer favourable arrangements) if the council releases information they deem sensitive to the public. This would reduce the opportunities for the council to purchase the most efficient and cost effective service.

The commercial interests of the company concerned maybe affected by releasing this information, as other organisations would be likely to expect the same level of service from the supplier, meaning their ability to negotiate the best deal would be harmed.

The public have an interest in knowing that money spend by public authorities has achieved best value. Releasing the information requested would assist this, by bringing transparency and accountability. However, the release of the information may also unbalance future tendering opportunities, and reduce the likelihood of the council achieving the best value that it can. Disclosure would also be likely to adversely affect those companies concerned.

For these reasons I have decided that the factors against disclosure outweigh the factors for disclosure, and that the information should be withheld.

If you are dissatisfied with the handling of your request you may write to: Julie Kenny, Director of Corporate Services, Hinckley & Bosworth Borough Council, Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR. Please quote your reference number on all correspondence and ask that your request be reviewed under the council's internal appeals procedure.

Should you remain dissatisfied following an appeal, you may write to the Information Commissioner for a further review at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. www.ico.org.uk.