

C&CR FOI Investigation Team

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Mr Mike Oxlarge

???

Date: 2 May 2018
Our Reference: 2545733

Dear Mr Oxlarge

Information Request - 2545733 - Potholes

I am responding to your request for information, which has been considered under the Environmental Information Regulations 2004 (EIR) and logged as case 2545733.

Your request is as follows:

There are a large number of potholes in Crewe and the surrounding area, I believe contractors are used to repair the potholes, which frequently appear to fail again in a very short time, could you please answer the following questions

- 1) *What is the hourly rate charged by the contractors*
- 2) *What is the average cost of materials per pothole*
- 3) *What is the expected lifespan of a pothole repair*
- 4) *What percentage of repairs require further correctional work*
- 5) *What steps are taken to recover the funds for pothole repairs that fail within their expected lifespan*
- 6) *How much has been recovered to date from the contractors for failed repairs*

I confirm that Cheshire East Council holds the information you have requested. I have detailed below the information being released to you.

Q1. What is the hourly rate charged by the contractors?

I am unable to provide you with the hourly rate charged by the contractors as I consider that the following exceptions apply to it.

The information requested is exempt from disclosure under Regulation 12(5)(e) of the Environmental Information Regulations (EIRs). Disclosure would prejudice, or would be likely to prejudice the confidentiality of commercial or industrial information where such confidentiality is provided by law to

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protect a legitimate economic interest. In order to come within the terms of the exception it must be shown that:

The information in question is “commercial or industrial”; we are satisfied that the information to which the exemption has been applied contains commercial information. The requested information contains details of the hourly rate charged by a third party in respect to a specific job.

There is an inherent duty of confidentiality when information is submitted to councils in procurement exercises for contracts. The Public Contracts Regulations 2006 and their precursor required that where a contractor/bidder obtains information as part of a procurement process we should accede to reasonable requests from the contractor that information passed to ourselves as part of the procurement process is treated as confidential.

To use this exception we are required to undertake a public interest test. The matters, which were considered in applying the public interest test, are as follows:

Factors in favour of disclosure

Cheshire East Council wishes to be open and transparent in its financial dealings. Disclosing as much information as it is possible to do. The authority has an obligation to explain how public money is spent.

Factors in favour of withholding

The request specifically asks for the hourly rate charged by the contractors. This is a highly competitive market. The contractor has requested that this information is not disclosed. It has explained that disclosure of this information to the world will enable its competitors to see the hourly rate which will put them at an advantage when bidding for similar contracts in the future.

It is considered that the greater public interest therefore lies in not providing the information at this time. In coming to that conclusion, the public interest in providing the information has been carefully weighed against any prejudice to the public interest that might arise from withholding the information; in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

This response therefore acts as a refusal notice under regulation 14 of the Environmental Information Regulations.

Q2. What is the average cost of materials per pothole?

A2 £16.61

Q3. What is the expected lifespan of a pothole repair?

A3. A pothole repair is guaranteed for 12 months.

Q4. What percentage of repairs requires further correctional work?

A4. Not recorded. Failure of repair can be due to many factors.

Q5. What steps are taken to recover the funds for pothole repairs that fail within their expected lifespan?

A5. Repair will be carried out again at no cost

Q6. How much has been recovered to date from the contractors for failed repairs?

A6. Repairs are carried out again at no cost

Please quote the reference number 2545733 in any future communications.

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Please note that an anonymised copy of this response may be included in the Council's disclosure log, which will be available on the Council's website shortly.

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If you are not satisfied with the outcome of your request or if you are not happy with the way your request has been handled, you can request an internal review. Internal review requests should be submitted within 20 working days of our response by emailing xxx@xxxxxxxxxxxxx.xxx.xx or in writing to Compliance & Customer Relations Team, Cheshire East Council, 1st Floor, Westfields, c/o Municipal Buildings, Earle Street, Crewe, CW1 2BJ.

If you are not content with the outcome of the internal review, you then have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF; Tel: 0303 123 1113; Fax: 01625 524510 or <https://ico.org.uk>. The Information Commissioner will not normally investigate your case until the Council's internal review process has been completed.

Yours sincerely

Helen Sweeney
Senior Compliance and Customer Relations Officer
Cheshire East Council

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