

My Ref: IG-17553
Your Ref:
Contact: Freedom of Information Team
Email: FOI@nottinghamcity.gov.uk



Nottingham
City Council

Freedom of Information Team
Information Compliance
Legal & Governance
2nd Floor
Loxley House
Station Street
Nottingham
NG2 3NG

Requester

At contact address specified for request number above

12 May 2023

Tel: 0115 876 4376

Email:

FOI@nottinghamcity.gov.uk
www.nottinghamcity.gov.uk

Dear Requester

Request under the Freedom of Information Act 2000 (the Act)

The council has considered your request which was received on 13 April 2023 and our response to your questions is shown below.

1. How many properties do you currently have on Temporary Accommodation?

There are around 425 units of temporary accommodation for homelessness families. Please note this does not include any use of B&B or nightly paid temporary accommodation. Nottingham City Council provides temporary accommodation for single homeless applicants in the form of commissioned supported accommodation. However, supported accommodation provision for single people is offered at various stages in accordance with the Homelessness Reduction Act and not always under a statutory duty to provide temporary accommodation. It is not possible to provide a figure of how many units are provided as temporary accommodation as this is variable according to presenting need.

2. Please can you advise us on the maximum that is paid per night for a Studio, 1 Bed, 2 Bed, 3 Bed & 4 Bed.

The Council uses nightly paid temporary accommodation as a last resort when no other provision is available, and it is required to fulfil our statutory duties. The price of this accommodation varies according to market trends and availability the maximum the council are paying for NPTA we are using at the moment is:

£100 for a 4 bed
£85 for a 3 bed
£90 for a 2 bed
£80 for a 1 bed

However, agreeing use at this cost is agreed by exception and all efforts are made to minimise use and move people to more suitable and less expensive provision as soon as it is available.



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3. Who are your largest 5 suppliers and how much do you pay them on average every month and provide the last 3 month they have invoiced you for?

In accordance with section 1(1) of the Act, the Council has a duty to confirm whether it holds the information of the description specified in the request, and if that is the case, to have the information communicated to the requester.

The Council is withholding the requested information under section 43(2) of the Act, as the Council believes disclosure of this information would prejudice the commercial interests of the Council.

The Council has considered the above prejudice in its determination to apply the section 43(2) exemption for this information. In considering how the release of this information may prejudice the Council's commercial interests, officers have considered any harm that would be caused if the requested information was disclosed. The requested information is not in the public domain. All requests for information received under the Act should be treated equally, and Public Authorities should only disclose information under the Act if they would disclose it to anyone else who asked.¹ We have therefore considered the implications of disclosing the requested information not only to yourself but also to the world at large.

Temporary Accommodation will be procured by a new framework agreement, disclosing rates paid to providers will create an unlevel playing field, it is likely to drive up costs for the provision of temporary accommodation. The Council want to achieve best value for temporary accommodation provision but also want trusted capable providers. The term 'commercial interests' is not defined in the Freedom of Information Act (FOIA). However the Information Commissioners Office (ICO) awareness guidance of section 43 advises that: "A commercial interest relates to a person's ability to participate competitively in a commercial activity. The underlying aim may be to make a profit however it could also be to cover costs or to simply remain solvent."² Disclosure would harm the Council achieving value for money. Disclosure of this financial information is likely to damage the fairness of the process and effectively provides a ceiling price for all providers of temporary accommodation to measure their costs against. Disclosure would therefore prejudice this exercise and future negotiations. The Council considers that the above prejudice would be likely to occur, the prejudice claimed is real, actual and of substance and there is an underlying link between disclosure of the information and the prejudice occurring.

As the Council have relied on section 43(2) of the Act, we are required to carry out a Public Interest Test. This is a test to see whether the public interest in withholding the information is greater than in releasing it. The Council acknowledge there is a public interest in ensuring the Council is transparent about our decision-making processes and expenditure on a range of high-profile decisions. The Council acknowledge that transparency reassures citizens that proper processes are being followed. Disclosure of this information allows citizens to scrutinise and debate these decisions so they can judge if the Council is making wise financial decisions and achieving value for money on those decisions.

In this case, however, we feel it is in the best interests of the public that the information is withheld. This confidential information is not in the public domain

¹ <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>

² <https://ico.org.uk/media/for-organisations/documents/1178/commercial-interests-section-43-foia-guidance.pdf>

specifically to avoid it prejudicing the procurement of temporary accommodation. Disclosure of this information would likely lead to a directly negative impact on the Council. As per ICO guidance for the 'Consideration of the identity or motives of the applicant.' "Authorities should view disclosure as a release of information into the public domain. This means that they must consider the consequences of disclosure to the world at large, and not just the impact of providing the material to the requester."³ The Council believes the public interest arguments in favour of withholding this information due to the detrimental financial impact on the Council if it was disclosed, outweighs the benefit of transparency. The Council has considered that it has an obligation to maximise value for money as part of the tender process. Revealing the requested information would be likely to increase our expenditure on the delivery of temporary accommodation and could also drive down the quality of the provision. It is in the best interests of the public that the Council does not put itself in a position where we cannot achieve value for money. Revealing the requested information would be likely to increase future Council expenditure and would therefore have an impact on public services. In addition there is an inherent public interest in the fairness and confidentiality of providers commercial information. For these reasons we feel it is appropriate in this case to maintain the exemption and withhold the information.

The Council has considered the harm that would be caused by disclosing the requested information. When weighing the factors favouring disclosure against those favouring non-disclosure, the Council has demonstrated the combined weight of factors favouring non-disclosure strongly outweigh the combined weight of those favouring disclosure. We feel it is appropriate in this case to maintain the exemption and withhold the requested information.

As the Council is withholding the requested information as detailed above under section 43(2) please accept this letter as a partial refusal notice issued in accordance with section 17 of the Act.

4. *If we were to supply accommodation on this basis, please can you give us contact names and telephone numbers of the procurement team.*

Please note the Council is withholding the name and telephone number of the officer responsible. In accordance with section 40(2) of the Act, the personal information about identifiable living individuals is exempt if disclosure to a third party would contravene one of the UK General Data Protection Regulations (UK GDPR) principles.

The Council are required under section 40(2) to take in account the UK GDPR, in particular Article 4 which states: "personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person".

The Council have considered the principles of the UK GDPR and the Data Protection Act 2018 in our decision as to whether to disclose the name of this employee. The Council must also consider whether it is fair in general terms to disclose the

³ <https://ico.org.uk/media/for-organisations/documents/1043418/consideration-of-the-identity-or-motives-of-the-applicant.pdf>

information. The Information Commissioner's guidance states 'It is reasonable to expect that a public authority would disclose more information relating to senior employees than more junior ones...the disclosure must not cause unwarranted interference with the rights, freedoms and legitimate interests of the employee'. The individuals concerned would not expect their details to be shared in response to a Freedom of Information request, as it is the Council's general guidance not to do so for staff below the level of Head of Service. The Council have therefore determined that in this instance the disclosure of this information to you otherwise than under the Act would contravene Principle (a) of the UK GDPR – lawfulness, fairness and transparency.

The Council is withholding some information as detailed above under section 40(2). Please accept this letter as a partial refusal notice issued in accordance with section 17 of the Act.

In accordance with Section 16(1) of the Act, the Authority has a duty to provide advice and assistance to you, as so far as it is reasonable to do so. Please note Nottingham City Council does not respond to unsolicited requests regarding sales, procurement and commissioning. Departments must follow a strict procedure as the Council has a responsibility to spend public money to achieve the best possible value and outcomes for its citizens whilst maximising the wider social, economic and environmental aims. The Council can direct you to the Council's website pages for procurement opportunities, events and how to sell to the Council, where you can also find the contact details for the Procurement Team including an email address and phone number:

<http://www.nottinghamcity.gov.uk/business-information-and-support/doing-business-with-nottingham-city-council/>

Further queries regarding the supply of temporary accommodation should be addressed to: housing.network@nottinghamcity.gov.uk

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If you are unhappy with the response provided or with the handling of your request, you can ask for an internal review in writing stating the reasons for your dissatisfaction. Your request for an internal review should be made to the council within forty working days of the date of this letter. Please quote reference IG-17553 in all communications.

You can contact the Freedom of Information Team either by email: FOI@nottinghamcity.gov.uk or writing to the **Freedom of Information Team, Information Compliance, Legal & Governance, 2nd Floor, Loxley House, Station Street, Nottingham, NG2 3NG.**

If you remain unhappy after receiving the response to your initial complaint you can request an independent review from the Information Commissioner's Office at **FOI/EIR Complaints Resolution, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF**. You may also contact the Information Commissioner's Office by telephone on 01625 545745 or by email at mail@ico.gsi.gov.uk.

Yours sincerely

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Nottingham City Council