

## Notice of determination of request – edited disclosure/refusal

### Introduction

This document sets out Hampshire County Council's response to your recent request for information under the Freedom of Information Act 2000. The form used is a general one, designed to cater for a range of types of response to requests.

Section 1 summarises your particular request. In Sections 2 – 7, those parts marked with an [ X ] apply to your request. Sections 8 – 10 apply in **all** cases.

"The Act" means the Freedom of Information Act 2000.

"Your request" means your request under Part 1 of the Act as summarised in Section 1 of this document.

### 1. Summary of your request

**Name:** A Elliott

**Address:**

**E-mail address:** request-31295-fb179446@whatdotheyknow.com

**Telephone number:**

**Description of information sought:**

Details relating to professional social workers

**Date of receipt of request:** 22<sup>nd</sup> March 2010

## 2. Duty to confirm or deny

In general, the County Council has a duty to inform you in writing whether it holds information of the description specified in your request. This is known as 'the duty to confirm or deny'. However, where the information sought is subject to certain exemptions, this duty does not apply.

The position in relation to your request is as follows:

- ☒ the County Council holds information of the description specified in your request.
- ☐ the information sought is subject to the exemptions specified later in this notice, and the duty to confirm or deny does not apply.

## 3. Determination

### ☐ **Decision – unedited disclosure**

The information held by the County Council within the description specified in your request is enclosed.

### ☒ **Decision – edited disclosure**

The information held by the County Council within the description specified in your request is enclosed. Please note that this information has been edited to remove information which is exempt information. For further details, see Section 4: 'Exemptions'.

### ☐ **Decision – refusal to disclose**

The request is refused on the following grounds:

- ☒ The information is exempt information under the Act. Details of any exemption that applies, and the reasons why it applies are given in Section 4: 'Exemptions'.
- ☐ The County Council estimates that the cost of complying with your request would exceed the sum of £450.
- ☐ However, the County Council is prepared to comply with your request on payment by you of a fee of £*[Insert cost, or a space to leave blank]*
- ☐ Your request is vexatious
- ☐ The County Council has previously complied with a request from you for information, to which your request is identical or substantially similar, and a reasonable interval has not elapsed between compliance with the previous request and the making of your request



[ ] **Decision – notice of application of qualified exemption**

The County Council is relying on a claim that certain information covered by your request is subject to a qualified exemption under the Act and has not yet reached a decision as to the application of the public interest test. For an explanation of the public interest test, see Section 5. Details of any exemption that applies and the reasons why it applies are given in Section 4: 'Exemptions'.

The County Council estimates that a decision on the application of the public interest test will be made and communicated to you by the following date:

If it is not possible to make a decision by this date you will be informed, given reasons why, and a new date will be given by which the decision is expected to be made.

#### 4. Exemptions

[x] The exemptions detailed below apply:-

Title of exemption	Section number in the Act	Absolute or qualified	Reasons exemption applies	Summary of any editing undertaken
Commercial Prejudice	S43(2)	Qualified	The information withheld is exempt by virtue of the commercial prejudice to Manpower as owner of the relevant details. The information was supplied to the Council as part of a tender process and while the tender is complete, the bill rates are still in use in the marketplace at present and if disclosed could be used by competitors in a fiercely competitive marketplace to under cut Manpower or could be used by other potential customers as a bargaining tool. Disclosure of the pay and agency charge rates would produce a similar result and disclosure of both bill rates and pay rates would allow others to calculate the company's profit margins.	Details of the bill rates and the formula by which they are calculated have been redacted from the copy contract supplied.  Details of pay and agency charge rates of each qualified social work professional currently working at HCC on an agency basis

## 5. Public interest test

Where a qualified exemption has been relied upon, it is necessary to consider whether the public interest in not releasing the information requested outweighs the public interest in disclosing it. This is known as the 'public interest test'.

[x] **The public interest test has been applied, as follows:**

**Title of qualified exemption:** Commercial Prejudice

**Factors considered relevant to the public interest in disclosing the information:**

Greater openness and transparency – this will increase public confidence in the manner in which public funds are spent and can create confidence in the integrity and robust nature of the procedures involved.

Scrutiny of spending of public funds – openness will inform the public as to the level of value for money obtained.

Promoting competition for public sector contracts - there is a public interest in ensuring that there is competition for public sector contracts. Increasing access to information about the tendering process may encourage more potential suppliers to enter the market. A better understanding of the process, the award criteria, and knowledge of how successful bids have been put together could also lead to improved bids being submitted in future.

**Factors considered relevant to the public interest in not releasing the information:**

- Information relating to rates in this instance are still current and would be of great commercial value in the current marketplace, which is fiercely competitive and one in which the competitors are constantly competing against each other in tender situations
- Pricing structure is a key element of the bid put together in such processes
- Information has been provided to the Council in confidence and with an expectation of privacy in relation to the business affairs of the company . Preserving that relationship is also critical in maintaining confidence in the Council's ability to obtain value for money in relation to its commercial and contracting activities.

**Conclusion:** Refuse to disclose the redacted items as listed

**Reasons:**

Disclosure of the withheld information would be commercially prejudicial to the interests of a third party and on balance it would not be in the public interest to release those details as the information is still current in a highly competitive marketplace.

## 6. Format of information

The County Council will normally provide the information in your preferred format, unless this is not reasonably practicable. In deciding whether it is reasonably practicable, the County Council will consider all the circumstances, including the cost of doing so.

The table below shows your preferred format and the actual format of the information we are sending to you.

	Preferred	Actual
E-mail	X	X
Paper copy		
Inspection of a record		
Digest or summary by e-mail		
Digest or summary by paper copy		

*[Insert either 'X' to select or a space to leave blank]* The County Council has complied with your preference.

*[Insert either 'X' to select or a space to leave blank]* Further to Section 11(3) of the Act, it was not reasonably practicable for the County Council to comply with your preference for the following reason(s):

*[Insert reasons for non-compliance, or a space to leave blank]*

*[Insert either 'X' to select or a space to leave blank]* You did not express any preference.

## 7. Complaints

The County Council has a procedure for dealing with complaints including complaints about the handling of requests for information.

*[Insert either 'X' to select or a space to leave blank]* A copy of the complaints procedure is attached.

*[Insert either 'X' to select or a space to leave blank]* A copy of the [complaints procedure](http://www3.hants.gov.uk/factsheets/factsheet4.htm) can be found at [www3.hants.gov.uk/factsheets/factsheet4.htm](http://www3.hants.gov.uk/factsheets/factsheet4.htm)

## 8. Application for decision by the Information Commissioner

Further to Section 50 of the Act, you may apply to the Information Commissioner for a decision if you feel your request for information has not been dealt with in accordance with the requirements of Part 1 of the Act. On receiving your application the Commissioner will make a decision, unless any of the following applies:

- the County Council's own complaints procedure has not been exhausted
- there has been undue delay in making your application
- the application is frivolous or vexatious
- the application has been withdrawn or abandoned.

When the Commissioner receives an application, he will either notify you that he has not made any decision as a result of the application and give you his reasons for not doing so, or serve notice of his decision (a 'decision notice') on you and the County Council. Where the decision is that the County Council has failed to comply with certain requirements under the Act, the decision notice must specify the steps to be taken by the County Council for complying with that requirement and the period within which they must be taken. The decision notice must contain details of a further right of appeal to the Information Tribunal. Where a decision notice requires steps to be taken by the County Council within a specified period, that period must not expire before the end of the period within which an appeal can be brought against the notice. If such an appeal is brought, no step which is affected by the appeal need be taken before the determination or withdrawal of the appeal.

## 9. Copyright

Where information has been supplied, you are advised that the copyright in that material is owned by Hampshire County Council and/or its contractor/s unless otherwise stated. The supply of documents under the Act does not give you an automatic right to re-use those documents in a way that would infringe copyright, for example by making multiple copies, publishing and issuing copies to the public.

Brief extracts of the material can be reproduced under the "fair dealing" provisions of the Copyright Design and Patents Act 1998 (S.29 and S.30) for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting.

Details of the arrangements for reusing the material owned by Hampshire County Council and/or its contractor(s) can be obtained by contacting the Chief Executive's Department, The Castle, Winchester, Hampshire, SO23 8UJ.

Authorisation to re-use copyright material not owned by Hampshire County Council and/or its contractors, should be sought from the copyright holders concerned. If in doubt, you should contact the Chief Executive's Department in the first instance.

## 10. Signature

**Signed:** Colin Russell

**Date:** .....

**Name:** [*Insert your name*]

**Designation:** [*Insert your job title*]

**Address for communications about this notice:** Chief Executive's Department,  
Hampshire County Council, The Castle, Winchester, Hampshire, SO23 8UJ.

**E-mail:** colin.russell@hants.gov.uk

**Please quote this reference on any correspondence: 2432**