

**Economy, Communities and Corporate Directorate**

Geoff Hughes

Mr Matt Kane

Email: [request-418506-  
7106d972@whatdotheyknow.com](mailto:request-418506-7106d972@whatdotheyknow.com)

Your Ref:

Our Ref: FOI IAT 14322

Please ask  
for: Helen WorthDirect Line /  
Extension: 01432 260497

Fax:

E-mail: [accessinformation@herefordshire.gov.uk](mailto:accessinformation@herefordshire.gov.uk)29<sup>th</sup> September 2017

Dear Sir,

I write further to your e-mail of 10<sup>th</sup> August 2017 requesting a review of the decision to refuse to release the information requested as set out in Ms Jacques' letter to you of 10<sup>th</sup> August 2017.

I have now had an opportunity to review the Council's handling of your request and would respond as follows.

**1. Information Requested (as set out in your e-mail dated 15<sup>th</sup> July 2017 )**

1) Waste and recycling schedules for all properties, organised by address and postcode. Please include day of the week and collection frequency (weekly, fortnightly etc) for each service type. I request that all data is provided in CSV format, ideally with separate columns for the different parts of the address. A link to a web service does not meet my requirements, though the source data for a web service may. Please include the UPRN for each property if held. This is now permitted by the AddressBase licence. See <https://www.ordnancesurvey.co.uk/about/news/2015/uprn-release-sharing-location-data.html> for details.

For an example of a suitable spreadsheet, see here:  
[https://docs.google.com/spreadsheets/d/1wUaMuJXBvj6tcZmMkx5HE0\\_Jc5IlqRJ-sPjeThyaDg/edit?usp=sharing](https://docs.google.com/spreadsheets/d/1wUaMuJXBvj6tcZmMkx5HE0_Jc5IlqRJ-sPjeThyaDg/edit?usp=sharing)

Variants are acceptable if they contain the requested data. Separate spreadsheets for each waste or recycling type are also fine.

2) For collections that are not weekly, details of how to work out which week a collection will be. For example, if a "Week 1/week 2" system is used, then please provide an example of a date in week 1 and a date in week 2. For example "2nd January 2017 was in Recycling Week 1"

3) Details of all alterations to regular schedules for bank holidays etc. Please provide this for all future dates in 2017 and 2018. For example, see this spreadsheet:  
[https://docs.google.com/spreadsheets/d/16F8UQvcQlvOjCje\\_mA9vs5xHv6wRmjTk8drZTg0wJmg/edit?usp=sharing](https://docs.google.com/spreadsheets/d/16F8UQvcQlvOjCje_mA9vs5xHv6wRmjTk8drZTg0wJmg/edit?usp=sharing)

4) Details of any planned changes to these schedules.

## **2. Information Provided by Herefordshire Council (under cover of correspondence dated 10<sup>th</sup> August 2017)**

The requested information is withheld under Section 43(2) of the Freedom of Information Act 2000, because disclosure would, or would be likely to prejudice the commercial interests of the contractor. In reaching this decision I have taken into account relevant guidance provided by the Information Commissioner's Office including whether the information in question is commercial or industrial, and whether the information is subject to confidentiality provided by law.

Herefordshire Council is satisfied that the information to which the exemption has been applied contains commercially sensitive information. The requested information contains information on commercial activity and unique processes.

Herefordshire Council also considers that the information is subject to confidentiality provided by law. There is an inherent duty of confidentiality when information is submitted to councils in a contract. The Public Contracts Regulations 2006 and their precursor required that where a contractor obtains information as part of a procurement process the council should accede to reasonable requests from the contractor that information passed to the council as part of the procurement process is treated as confidential.

It has also been determined that the information requested is not trivial and includes data that could potentially be used by competitors to their own advantage and to the disadvantage of the contractor. Elements within the information would disclose a package of information brought together using the skills and experience of the contractor, which would be advantageous to other businesses in the area.

Consideration has also been given as to whether the information is available by other means or has been passed into the public domain. However, the withheld information encompasses aspects that are unique to the contractor and as such are not available by other means and have not been published into the public domain.

The contract contains information provided by the contractor as to when and how it intends to carry out the contract and provide the specified services. Some of this information is proprietary in nature and provides a detailed overview of the way the contractor approaches such contracts. The contractor states that disclosure could provide information on its methods of business which may be of advantage to its direct competitors, thereby negating its ability to develop a commercial advantage when tendering for other contracts.

Disclosure would be likely to disadvantage the contractor ability to tender for other public or private commercial contracts if competitors to the methodology use this information for their own benefits.

The council accepts that the legitimate economic interests of the contractor could be adversely affected by the disclosure of this information.

There is an agreement that the confidential information agreed in the contract would be confidential to both parties (in that each party agreed to hold the information in confidence and could not therefore disclose it as each would owe the other a duty of confidence to protect their respective economic interest).

The council is able to consider its own economic interests in addition to those of the contractor. The council feels that confidentiality is required in order to protect its position as purchaser. Disclosing this information would be likely to affect the ability of the council to negotiate best value and to effectively procure services in the future.

In coming to this decision I have weighed the public interest for disclosure against the public interest in not disclosing the information and the commercial interests of the contractor



The public interest in disclosure:

- Openness and transparency on activities of Herefordshire Council
- The right to scrutinise public spending

The public interest in not disclosing the information and the commercial interests of the contractor

- To release this information into the public domain could compromise the contractor's commercial competitiveness and ability to secure new business.
- The property collections days and material splits is a direct output of the modelling work undertaken in the preparation of any tender submission
- Full knowledge of the collection data would enable any competitor, using one of a number of proprietary software packages, to undertake detailed back analysis and therefore determine the contractor's service in terms of operational strategy.

I have found the public interest in disclosure in this case is outweighed by the public interest in not disclosing the information. Please therefore take this letter as a refusal notice under S17 of the Act.

**3. Details of Request for Review (as set out in e-mail dated 10<sup>th</sup> August 2017)**

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Herefordshire Council's handling of my FOI request 'Waste and recycling collection dates'.

I believe that Section 43 has been incorrectly engaged. There is no reasonable way to believe that simply providing collection day information would reveal proprietary routing information. I am not asking for route or crew details. I am not asking for any more data than is available on the authority website when searching for individual property details. While this is not reasonably available for the purposes of section 21 FOIA because it would be prohibitively time-consuming to query thousands of individual properties, it nevertheless means that the data is available outside a narrow circle and thus the likelihood for harm is limited. If the information were genuinely valuable to competitors bidding for contracts, they could devote the resources to querying individual streets to gather enough information to find out collection days.

No information was provided about what evidence the contractor had offered to demonstrate why providing collection day data in a machine readable form will harm its commercial interests but making it available on the authority's website as a web service will not.

I also believe that the public interest test has been incorrectly performed. No consideration was given to the public benefit of having easily available waste collection day information in an open form, rather than restricted to the authority's website. Free services such as chat bots and voice services help encourage recycling, benefiting the environment and saving public money.

A full history of my FOI request and all correspondence is available on the Internet at this address:  
[https://www.whatdotheyknow.com/request/waste\\_and\\_recycling\\_collection\\_d\\_157](https://www.whatdotheyknow.com/request/waste_and_recycling_collection_d_157)

#### **4. Review of the Council's Handling of the Freedom of Information Request**

I have carried out a review of your request and in particular the application of the Section 43 exemption. I have considered the public interest test applied in this case and can confirm that I do not feel that the Section 43 exemption has been applied correctly.

#### **5. Conclusion**

In response to your request please find attached a file which contains all UPRN's for addresses in Herefordshire. Please note that addresses have not provided as this information is accessible by other means. The information you have requested may be accessed on the Ordnance Survey Website:

<https://www.ordnancesurvey.co.uk>

We therefore will not be providing the information in the format requested under Section 21 of the Freedom of Information Act 2000.

Information relating to collection dates and changes to schedules are available from the council website:

[https://www.herefordshire.gov.uk/info/200138/rubbish\\_and\\_recycling](https://www.herefordshire.gov.uk/info/200138/rubbish_and_recycling)

If you remain dissatisfied with the handling of your request or you would like to pursue the matter further, you may wish to refer this matter to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Telephone: 01625 545 745 Web Site: [www.ico.org.uk](http://www.ico.org.uk)

Yours sincerely,



**HELEN WORTH**

**ON BEHALF OF FOI REVIEW PANEL**