



## Response to Request for Information

Reference      FOI 001365  
Date            27 July 2017

### ***Information Governance – Support offer to Schools***

#### **Request:**

Under the Freedom of Information Act 2000 I would like to request the following information:

1. Please provide a copy of your Council's Information Governance traded support offer to schools. This should include the following information:
  - a. Actual services available under the offer
  - b. Cost to schools per service, whether inclusive or ad hoc
2. Please provide a copy of any materials your council has created to support schools to comply with the General Data Protection Regulation.

The Council considers that the information you have requested, which we have identified above, is exempt from disclosure. Section 43(2) of the Freedom of Information Act provides an exemption from disclosure where to release information would, or would be likely to prejudice the commercial interests of any party (including the Public Authority holding it).

Disclosure of the requested information could prejudice pending or future negotiations the Council may be subject to.

This is a qualified exemption under the FOI Act which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption. The public interest means what is in the best interests of the public not what is of interest to the public.

We should explain that, under Section 43 of the Freedom of Information Act 2000, the Council considers that to disclose the information you have requested, at this stage, would prejudice the commercial interests of the parties mentioned above and this information is therefore exempt from disclosure.

This information is commercially sensitive to the service providers to schools and it is important to their competitiveness that they are able to remain as a participant in the market. When considering public interest for and against disclosure of this requested information, the Council considers that the public interest in withholding the

information from disclosure to the wider world outweighs the public interest in disclosure.

The reason for this is by releasing the information it would be potentially damaging to the service provider to share their pricing and materials with third parties as it is likely to prejudice the commercial interest of the parties concerned.

Disclosure of the requested information would allow other companies to use this knowledge to undercut rivals which, could then impact on the future quality and service the service provider offers to schools. It might also have a negative impact on fair competition in future processes and that it is not common knowledge and would likely be used by competitors in a particular market to gain a competitive advantage. The Council also considers that disclosure of such information would be damaging to the Council's commercial interest as it would be likely to:

- (a) discourage schools/individuals from providing the Council with commercially sensitive information in the future or undertaking services with the Council;
- (b) adversely affect the Council's bargaining position during future contractual negotiations.

In applying the public interest test the Council gave careful consideration to the arguments for and against disclosure. When considering factors which would favour disclosing the information, the Council had to assess whether disclosure of the information would:

- Allow for more informed debate on the issue;
- Promote accountability and transparency for our decisions and in our spending of public money; and
- Assist the public to understand and challenge our decisions.

Against these considerations the Council had to balance the likelihood of disclosure having an adverse affect on the commercial interest of the service providers concerned and the Council itself.

Having taken into account the arguments for and against disclosure, the Council decided that the public interest in this case is best served by maintaining the exemption and by not disclosing the information requested, at this stage.

The Council considers that the possible benefits of disclosure are outweighed by the real risk of causing prejudice to the commercial interests of the service providers concerned and the Council itself. In this case there is an overriding public interest in ensuring that service providers are able to compete fairly and in ensuring there is competition for public sector services.