

## Response to Request for Information

Reference      FOI 002971  
Date            16 November 2018

### ***Council Contract on Short Breaks or Respite Services***

#### **Request:**

- 1) Which companies or charities hold council contracts to provide short breaks or respite services for children with disabilities? Including but not exclusively: Progress Care Solutions, Let Us Play, Barnardos, Trident Reach Resource Centre.

[In response to question 1, please see the table provided on page 4.](#)

- 2) When was each providers contract renewed in the financial years April 2016/2017 and April 2017/18.

[In response to question 2, please see the table provided on page 4.](#)

- 3) How much does the council pay each provider for their services and was the provider who won the bidding the lowest cost to the council.

[In response to the first part of question 3, please see the table provided on page 4.](#)

[In response to the second part of question 3, please see response provided to question 4.](#)

- 4) What did each provider promise to deliver in their bids especially with reference to the service being offered locally.

[In response to question 4, your request for information has now been considered and the City of Wolverhampton Council is not obliged to supply the information you requested for the reasons set out below.](#)

[Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information \(because the information is exempt\) to provide you, the applicant with a notice which:](#)

- [\(a\) states the fact,](#)
- [\(b\) specifies the exemption in question and](#)
- [\(c\) states \(if that would not otherwise be apparent\) why the exemption applies:](#)

[In relation to your particular request, the following exemption applies:](#)

## Section 43 – Commercial interests

In applying this exemption, this requires the Council to conduct a public interest test to balance the factors for and against disclosure of the requested information (the public interest here being defined as something of benefit to the public rather than something the public may be interested in).

Disclosure under the Act's provisions should also be considered as being made to the wider world and not to a particular individual for a particular purpose.

When applying the public interest test in respect of commercially sensitive information, the Council has considered:

- Prejudice or detrimental effect of disclosure
- Specific circumstances of the case
- Effect of disclosure on the wider world/public

In such cases the public interest factors for disclosure include:

- Demonstrating accountability of public money being spent
- Protection of the public from unsafe practices or rogue traders
- Circumstances in which the information was received
- Competition issues

Further consideration also needs to be given to:

- Whose interests will be prejudiced?
- How will those interests be prejudiced?
  - Usefulness of information/detail
  - Degree of similarity
  - Effect on competition
  - Effect on the market
  - Timing of the request and response
- Can sensitive information be redacted?
- Where is the public interest?
- Is the information commercial in nature? (For this element the information needs to relate to a commercial activity, either of the Council or the Contractor.)
- Is the information subject to confidentiality provided by law?
- Is the confidentiality provided to protect a legitimate economic interest? (This condition is satisfied if disclosure would adversely affect a legitimate economic interest of either the Council or Contractor the confidentiality is designed to protect and harm would be caused to a legitimate economic interest, not just a potential risk that harm might occur.)

In this case, the provision of short breaks or respite services for children with disabilities including bidding, tender submissions or evaluations would lead to competitors gaining advantage by them having access to detailed information which would adversely affect the legitimate economic interest of a provider with a unique approach which would distort the market.

The Council always seeks value for money and makes every effort to promote fair competition. However, the Council considers that by disclosing this information to the world-at-large, organizations that are not able to demonstrate at least the same level of innovation and initiative may benefit by claiming to undertake particular activities that they are either not able to fulfill or even have no intention to fulfill on contract implementation.

In the case of the above cited information, the Council considers that the public interest in withholding this information for the reasons cited outweighs the benefits of demonstrating openness and transparency of process at this stage.

A key consideration in the application of this exemption is the fact that a bidder's tender submission in response to a competitive procurement process relates to how the bidder undertakes their commercial activity. In this case the tender submission includes details of operational activity.

It is therefore concluded on this occasion that the balance of public interest is against disclosure as the release of a bidder's tender submission will affect competition in the market and would prejudice that bidder's ability to compete for future contracts.

Therefore, the Council will not be making disclosure and is of the view that the disclosure of the requested information would be likely to prejudice the commercial interests of both the Council and individual tendering organisations taking part in the process and that Section 43 (2) of the Act is engaged, where disclosure would, or would be likely to prejudice the commercial interests of any person.

- 5) How many children are receiving respite services from Wolverhampton but out of the council area. How many of these are through parental preference. In response to question 5, please see the table provided on page 4.

Provider	Annual contract value	Contract end	No of children using the services
Progress Care	£35,000	April 2019	36 children overall. 120 sessions per year
Harmony Care Progress Care Trident Reach	£55,000	April 2019	Harmony Care contract has ended.
Progress Care Trident Reach The Way – Wolverhampton Youth Zone	£70,000		Progress Care – 43 YP's accessing with different packages of support.  The Way Wolverhampton Youth Zone – contract has ended.  Trident Reach – 1 YP's a package of support.
Progress Care	£50,000		5-8 Children per week.
Barnardo's	£30,000		** See below
	£700,000	From September 2016 to September 2021	No of children/no of nights
Stourbridge House			117/173
Bluebells			3/114
Cannock Resource			3/193
Daisybrook			2/72
Coppice			2/92
Direct payment			4/83
Foster carers			4/149

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With reference to the above table where it is marked \*\*, your request for information has now been considered and the City of Wolverhampton Council is not obliged to supply the information you requested for the reasons set out below.

Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information (because the information is exempt) to provide you, the applicant with a notice which:

- (a) states the fact,
- (b) specifies the exemption in question and

(c) states (if that would not otherwise be apparent) why the exemption applies:

In relation to your particular request, the following exemption applies:

**Section 21 – Information reasonably accessible to the applicant by other means**

We can confirm that the department holds information that you have asked for in relation to the above. However, the information is exempt under section 21 of the FOI Act because it is reasonably accessible to you, and I am pleased to inform you that you can access it on our website via the following link:

<https://www.barnardos.org.uk/what-we-do/support-for-disabled.../short-break-care>

Section 21(1) of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

You can find out more about Section 21 by reading the extract from the Act, available at: <http://www.legislation.gov.uk/ukpga/2000/36/section/21>