



Derry City & Strabane
District Council

Comhairle
**Chathair Dhoire &
Cheantar an tSratha Báin**

Derry Cittie & Stràbane
Deistrick Cooncil

Ref: FOI / 1387

22 August 2017

Email:

Dear

Freedom of Information Act 2000 Request: Names of last 10 Successful & Unsuccessful Tenderers

I refer to your FOI request as above.

1. Please confirm the name of the successful tenderers for the last 10 tenders awarded by Derry City and Strabane District Council.

Response: See attached spreadsheet

2. Please confirm the name of the unsuccessful tenders for the last 10 tenders awarded by Derry City and Strabane District Council.

Response: Council considers this query exempt under Section 41, information which has been provided in confidence, and Section 43 where the release of information is likely to prejudice someone's commercial interests.

As you will be aware, disclosure of information under the FOIA and related legislation is a disclosure into the public domain rather than a disclosure to a particular requester. While disclosing the information could ensure greater transparency, promote public debate and demonstrate the Council is acting appropriately, disclosure would also mean that the information would not retain its confidentiality therefore the information will not be disclosed.

The Council considers that to disclose the information you have requested would prejudice the commercial interests of the parties concerned and this information is therefore exempt from disclosure under section 41 and 43 of the Act. This

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information is commercially sensitive to prospective tenderers and it is important to their competitiveness that they are able to remain as a participant in the market.

With regards to the Council's commercial interest, if the Council disclosed this type of information it would adversely affect our ability to source suppliers in a competitive environment.

Where the Council decides that the information requested is exempt from disclosure under section 41 or 43 of the Freedom of Information Act, it must then apply what is known as a "public interest test". This requires the Council to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing information.

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 effect on the commercial interest of the tenderers 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. The Council considers that the possible benefits of disclosure are outweighed by the real risk of causing prejudice to the commercial interests of the tenderers concerned and the Council itself. In this case there is an overriding public interest in ensuring that companies are able to compete fairly and in ensuring there is competition for public sector contracts and there is little public interest in the public at large knowing who was not receiving public monies.

You can find out more about Section 41 and 43 by reading the extract from the Act and some guidance points we consider when applying this exemption

<https://ico.org.uk/media/for-organisations/documents/1432163/information-provided-in-confidence-section-41.pdf>

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https://ico.org.uk/media/for-organisations/documents/1178/awareness_guidance_5_v3_07_03_08.pdf

If you are dissatisfied with our response you have rights of review and appeal; these rights consist of two review processes.

Firstly our internal review procedure is available by contacting:

John Kelpie
Chief Executive
Derry City and Strabane District Council
98 Strand Road
Derry BT48 7NN
Tel 028 71253253 or email john.kelpie@derrystrabane.com

Secondly, you can appeal directly by contacting the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
CHESHIRE SK9 5AF
Tel: 0303 123 1113 (local rate) or email: casework@ico.org.uk

Yours sincerely



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