



Bob Egerton
Via email:
bobegerton@mac.com

Ref: 101007077807
Date: 25/06/2024

Dear Bob Egerton

Your request for an Internal Review under the Freedom of Information Act (FOIA) 2000

Thank you for your email dated 24/05/2024, in which you raised concerns regarding the response to your request for information under the FOIA 2000

My understanding of your concerns are that:

- Patronage data has been redacted from the documentation under Section 43(2) – Commercial Interests of the FOIA 2000
- The headings of sections 2.3 and 2.6 have been redacted.

As a result of your concerns, I have reviewed the whole process to ensure the response you were provided with is in line with the FOIA 2000.

How I reached my view

In reviewing this case, the information that I have reviewed and considered includes:

- The original request for information
- The original response
- The information that has been redacted
- The application of Section 43(2) – Commercial Interests of the FOIA 2000

My final view

I have reviewed the case as an independent reviewer and my findings are that there has been some over redaction. There is no exemption under the FOIA 2000 that applies to the headings of sections 2.3 and 2.6. However, I have found that it was correct to apply Section 43(2) – Commercial Interests to the patronage data, and the information redacted under the headings of 2.3 and 2.6. I have explained the reasoning behind my findings below.

In terms of the headings, 2.3 is titled “Current marketing and promotion of Truro P&R Service” and 2.6 is titled “Market Engagement”. This information does not meet any of the exemptions to disclosure within the FOIA 2000, and therefore these headings should not have been redacted. I apologise for this.

In terms of the patronage data, and the information redacted under sections 2.4 and 2.6, Section 43 of the FOIA 2000 states “Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”

The redacted information includes detailed confidential market intelligence regarding the operation of the current provider and others. Section 2.3 “Current marketing and promotion of Truro P&R Service” gives specific details of the current provider’s marketing strategy. Section 2.6 “Market Engagement” contains the findings of a soft market test, for which sample providers provided confidential business information regarding their ability to meet the requirements of any possible future tender. The figures of patronage are broken down to exact figures for each month and year. Disclosure under the FOIA 2000 is disclosure to the world at large, without restriction. Using information already accessible in the public domain (for example the price of tickets), it would be possible from the patronage figures to calculate an exact monthly and yearly figure of revenue. All of the above can be considered confidential market intelligence.

Disclosure of this confidential market intelligence would cause detriment to the current provider and the soft market test providers. It would give their valuable financial information, details of marketing strategy and details regarding multiple providers business models to potential market competitors, without them having to disclose any of their own information in return. This would give those providers a commercial competitive edge. In addition to this the Council’s commercial interests would also be prejudiced. Disclosure of a confidentially obtained break down of exact month by month patronage figures, the current provider’s marketing strategy and other providers ability to meet the tender would damage the relationship between the Council and those providers. Additionally, future providers may be reluctant to engage with the Council if there is a fear their confidential commercial information would be disclosed into the public domain, which in turn would adversely affect the Council’s ability to achieve value for money. Therefore, I consider that disclosure would result in commercial interests being prejudice and I believe it was appropriate to apply Section 43(2) – Commercial Interests, subject to a Public Interest Test (PIT).

When considering withholding information under Section 43(2) – Commercial Interests of the FOIA 2000, the legislation requires a PIT is conducted to determine whether the public interest in disclosure outweighs the public interest in maintaining the exemption.

I acknowledge that there is a public interest in the Council being transparent and open regarding a main transport hub for Truro and the surrounding area. Disclosure could also increase public debate in whether value for money is being achieved. This is partly negated as there is already information in the public domain providing cost figures. With regards to the public interest in maintaining the exemption, there is significant public interest in the Council obtaining value for money, which as established above would be adversely affected by disclosure, particularly at time where the Council, like many public authorities, is facing substantial pressures to provide public services with limited resources.

Based on this, my view is that the public interest favours maintaining the exemption to disclosure provided by Section 43(2) – Commercial Interests at this time.

I appreciate this may not be the response you were hoping for. I hope this response clarifies the reasons why the redacted information has been withheld under Section 43(2) – Commercial Interests.

If you remain dissatisfied, you have the right to apply directly to the Information Commissioner, the contact details of whom are below. Alternatively, if you have any further requests for information, please let us know.

FOI/EIR Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Email: icocasework@ico.org.uk

Yours sincerely

Andrew Robinson
Information Compliance Team Lead
Customer and Business Operations