

## **Barnet with Cambridge Education and Skills Provision (ESP) contract- refusal notice**

We are withholding some elements of the contracts between Cambridge Education (CE) and London Borough of Barnet:

The following documents/schedules from the contract have been redacted:

<b>Document title</b>	<b>Section redacted and description</b>
Schedule 4.1 Commercial in confidence -4.1 supplier solution final	All
LBB financial proforma	All

We consider the following exemptions under the Freedom of Information Act 2000 to apply:

### **Schedule 4.1 commercial in confidence- 4.1 supplier solution final**

#### **Section 41- information provided in confidence**

We consider that the absolute exemption set out in Section 41 (Information provided in confidence) applies to the information requested

Section 41 of the Freedom of Information Act 2000 provides that (1) information is exempt information if – (a) it was obtained by the public authority from any other person (including another public authority); and (b) the disclosure of the information to the public by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

We have withheld the commercial in confidence supplier solution which was marked as confidential in the overall response provide to the Council. This submission was a separate schedule from the main supplier response due to the nature of the content.

Information was provided during the procurement exercise and not at contract award. The information contains Cambridge Education IPR. It includes detailed methodology and financial aspirations that were clearly marked as confidential as they set out gainshare opportunities and the approach to achieving them that is used in other tenders. The approach detailed here includes particular benefits to the council that could be compromised should this information be made public.

The information is not available by any other means.

Section 41 is an absolute exemption and therefore the information will not be published.

## **LBB Financial proforma**

### **Section 43(2)**

We consider that section 43 (Commercial Interests) applies which sets out an exemption from the right to know if:

(2) Disclosure would or would be likely to prejudice the commercial interests of any person (A person may be an individual, a company, the public authority itself or any other legal entity).

This exemption applies because the release of these details is likely to prejudice the commercial interests of the Council and Cambridge Education.

This schedule has been withheld because it sets out the detailed business plans, efficiencies, and strategy for each service area. This includes its organisation and trading. This schedule confirms the financial elements that are set out in schedule 4.1 commercial in confidence supplier solution that has also been withheld.

By publishing this schedule, the future areas of targeted business would be widely known. This would likely result in unfair competition as competitors will know where Cambridge Education are focussing their efforts in the market and the anticipated values attached to this. They would therefore be able to adjust their pricing to undercut Cambridge Education. This is likely to compromise the ability to deliver the savings that are required as part of the contract between Cambridge Education and the Council.

If Cambridge Education are unable to deliver the anticipated savings and achieve the business plans there is a risk to the Council that the contract would have to end prematurely as it will not be commercially viable to both parties. Should this happen there would be an increase cost of delivery to the Council who would likely need to find alternative funding and therefore may be unable to deliver their statutory requirements in Education and skills.

### **Public interest test**

This is a qualified exemption under the Freedom of Information Act 2000 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.

### **Factors in favour of disclosure**

- Publishing the methodology to efficiency savings would provide a better understanding of successful bid details that may lead to improved bids being

submitted for similar work, increasing competition, and decreasing public sector costs.

- Supports the accountability and transparency of the Council's decisions.

### **Factors in favour of withholding**

- It is not in the public interest for the Council to publish commercially sensitive information that would likely cause harm to the commercial interests of the supplier of a managed service within the Council and could end the contract prematurely. For a contract of this size it could affect the trading of Cambridge Education resulting in job losses which is not in the public interest
- Publishing commercially sensitive details that could impact efficiency savings that could result in the Council requiring additional funding, or not being able to deliver statutory requirements within the Borough would not be in the public interest.

### **The weighting of the factors**

Although there is no numerical value applied to the weighting, the impact of not delivering the statutory requirements within Education and Skills would have a more significant impact on the public and residents of the borough than increasing the understanding of successful bids or increased transparency. Therefore, the factors in favour of disclosing the schedules hold less weight than those for them being withheld.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information until the scheduled publication date. Therefore, the information will not be published.