

NSEP Community Interest Empowering Communities Contract – Refusal Notice

We are withholding some elements of the Contract as we consider that the following exemptions apply to it.

- Section 43 (Prejudicial to commercial interests) subsection (2) - Information is exempt if its disclosure under would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
- Section 40 (Personal data) subsection (2) – personal information of individuals

S43(2) – Details of Tender and Pricing structures of contractors

Because of the commercial nature of this process and the subsequent variations in rates of pay, we have concluded that this information is exempt under section 43(2) of the Freedom of Information Act 2000 (FOIA) because the disclosure of this information would be prejudicial to the third party's and the London Borough of Barnet's commercial interests. This is a qualified or non-absolute exemption and the public interest test applies.

Their pricing structures would be widely known, allowing plagiarism by competitors who are competing for business from other local authorities. This would be likely to lead to NSEP Community Interest Empowering Communities being unsuccessful in obtaining tenders or losing business to competitors. This loss of business would be harmful to their commercial interests. The link between the disclosure and harm is that knowledge of the information would allow competitors an advantage over NSEP Community Interest Empowering Communities in pricing tenders which would be likely to lead to NSEP Community Interest Empowering Communities being unsuccessful in gaining business.

Also redacted out are specific details on handling customer service requests which are considered unique to the business service model operated by NSEP Community Interest Empowering Communities

We have considered the public interest the disclosure of this information. These factors include the importance of transparency in the decision-making process relating to the spending of public money to ensure that procurement processes are conducted in an open and honest way. It is also important for the public to see taxpayers' money being used effectively and public authorities getting value for money.

We have also considered the public interest in withholding this information. If disclosed, there is a strong risk that the Council's bargaining position for the future will be prejudiced and commercial organisations may become reluctant to enter into further free and frank negotiations. This would undermine the Council's ability to fulfil its role effectively and prevent it from achieving the value for money that is so important.

For these reasons we consider that the public interest in withholding the information

S40(2) - Personal data

We have also redacted the signature of an individual by virtue of section 40 (2) of the Freedom of Information Act 2000 (FOIA), as disclosure of this information to the public generally, in the Council's view, would not be consistent with the data protection principle found in Article 5.1(a) of the General Data Protection Regulation (GDPR) lawfully, transparently and fairly. We have considered whether disclosure is lawful and fair and whilst it may be lawful under Article 6.1(f) GDPR (legitimate interests) it would not be fair to the individuals concerned who would not expect their signature to be disclosed.