

Public Interest Test – 94A/23

Applicable exemption:

Section 43 – Commercial interests

Harm

Disclosure of the pricing for the healthcare professionals in custody is commercially sensitive, as divulging the pricing model of the supplier is likely to cause financial loss to that organisation. Revealing this information would also give competitors an advantage in future tendering processes which would be unfair to the provider of the service. This would subsequently undermine the integrity and effectiveness of the tendering process as it may dissuade organisations from submitting tenders or encourage those who do, to compete on price rather than quality. This would reduce the quality of services / products available to the public and for West Midlands Police (WMP).

Factors Favouring Disclosure

There is a clear public interest in ensuring that public authorities are retrieving a fair price and value for money from the supplier of these services. As this is the public's money, they have the right to ensure that their money is being spent appropriately. This is particularly the case at this time as police finances are coming under increased scrutiny as budgets are reduced. It is important that WMP are held accountable for any financial decisions that are made.

Factors Favouring Non-Disclosure

Disclosure of the requested information is likely to undermine our future contract renewal or negotiation ability with these suppliers, and subsequently damage the relationship between WMP and the suppliers involved. This would likely result in pushing up renewal prices and may also reduce the number of companies tendering, therefore reducing the opportunities to purchase the best services from suppliers and consequently cost more to the force.

Sensitive commercial information such as pricing will adversely affect the interests of the company involved. There are numerous potential suppliers for some of the products and services. A contractor would have a weakened position in a competitive environment, if market sensitive information were released or information of potential usefulness to its competitors were to be likewise released. Disclosure of this pricing model would provide competitors with an advantage for future work. We do not want to encourage companies to compete solely on price to the detriment of the quality of the service offered.

Balancing Test

Before deciding which of these arguments is most compelling, a balancing test needs to be completed. In this case, the right of the public to know needs to be weighed against the damage caused to the suppliers and WMP's business reputation or confidence in which it is held by those suppliers. The information, if placed into the public domain, would give the

advantage to competitors in any future tendering exercises. It is in the public interest to ensure that companies are able to compete fairly for public sector contracts.

The accountability for public funds is a powerful argument. However, this is offset by the fact that the authority is already subject to a financial audit and is therefore already held accountable for the money that it spends. This process will not be enhanced by a disclosure under FOIA.

Having considered the arguments for and against, we therefore consider that the public interest lies in not disclosing the information. The high quality of service provided is in the interest of the wider public, therefore the force will not disclose information that could cause harm to the organisation in question and to any future tendering processes.