

## Public Interest Test

### FOI's – Request for Information Regarding ICT Contract

#### Copy of Information in Question:

All requests relating to ICT operations and contracts

#### Public Interest Requirements:

If a Qualified exemption is to be used, such as Section 43(2) Commercial In Confidence, then the following should take place;

- An assessment against the criteria of applying the exemption
- A Public Interest Test


A public interest test requires a public authority to weigh up the public interest in maintaining the exemptions vs the public interest in disclosure. The below definitions will assist in undertaking the assessment.

- **In the public interest:** The public interest can cover a wide range of values and principles relating to the public good, or what is in the best interests of society. Thus, for example, there is a public interest in transparency and accountability, to promote public understanding and to safeguard democratic processes. There is a public interest in good decision-making by public bodies, in upholding standards of integrity, in ensuring justice and fair treatment for all, in securing the best use of public resources and in ensuring fair commercial competition in a mixed economy.
- **Of interest to the public:** The public interest is not necessarily the same as what interests the public. The fact that a topic is discussed in the media does not automatically mean that there is a public interest in disclosing the information that has been requested about it.
- **Private Interest:** FOIA section 2(2) refers to the public interest; furthermore, disclosures of information under FOIA are in effect to the world at large and not merely to the individual requester. So, the requester's private interests are not in themselves the same as the public interest and what may serve those private interests does not necessarily serve a wider public interest.

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**Assessment of Request:**

Overall Criteria	Criteria	Assessment
<b>Background</b>	Information relating to the original decision making	In relation to the ICT contract going out to tender Attached is the timeline for the tender  RE_ ICT Contract - FOIs .msg
	Reason for not wanting to release the information  Does this reasoning still stand?  No (Assessment concluded – release information)  Yes (Continue to Criteria assessment)	<b>Commercial and in confidence</b> ICT Provision Contract is currently out for tender.  Yes, reasoning still stands
<b>Criteria assessment – has it been met</b>	1. <b>Section 43(2) exempts information whose disclosure would, or would be likely to, prejudice the commercial interests of any person (an individual, a company, the public authority itself or any other legal entity).</b>  In order to meet S43(2), we must meet one of the following. <ul style="list-style-type: none"> <li>• <b>Procurement</b> – many public authorities will be involved in the purchase of goods and services and will hold a wide range of information relating to this procurement process. This can include information provided during a tendering process about both successful and unsuccessful tenders; details of a contract with a successful company; future procurement plans; and performance information about a contractor.</li> </ul>	This part of the exemption has been met <ul style="list-style-type: none"> <li>• <b>Procurement</b> – many public authorities will be involved in the purchase of goods and services and will hold a wide range of information relating to this procurement process. This can include: information provided during a tendering process about both successful</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Regulation</b> – public authorities who undertake regulatory activity may hold commercially sensitive information received in the course of their investigations or related to their functions, for example the issuing of licences.</li> <li>• <b>Own commercial interests</b> –some public authorities, such as publicly owned companies, are allowed to engage in commercial activities and many generate their own income. Any information held about these activities will potentially fall within the scope of the exemption.</li> <li>• <b>Policy development</b> – during the formulation or evaluation of policy, a public authority may seek information of a commercial nature. For example, if a public authority is developing a policy aimed at promoting a particular industry, then it may request information from companies within that sector.</li> <li>• <b>Policy implementation</b> – a public authority may undertake commercial activity in order to pursue its own policies. For example, in order to encourage economic development, a public authority may award grants to businesses. It may therefore hold information relating to its assessment of any proposals submitted to it.</li> <li>• <b>Private finance initiative/public private partnerships</b> – public authorities often work with private sector partners, who may help to finance projects and deliver identified services. In such circumstances, the public authority is likely to hold a significant amount of information about the funding of the partnership, as well as more general information relating to the partner’s private business.</li> </ul>	<p>and unsuccessful tenders; details of a contract with a successful company; future procurement plans; and performance information about a contractor.</p> <p>The Trust will disclose any information that does not fall into this criteria, as part of being open and transparent.</p>
	<p>Has the above criteria been met?</p> <p>Yes (Go to Public Interest Test)</p> <p>No (Continue to alternative exemptions)</p>	<p>Yes</p>

<b>Public Interest Test – means testing</b>	Private interest – discuss if the reason for the request itself is defined solely, in part or not all, under the definition of Private interest	It is believed that this information is solely of the interest of an individual
	Of interest to the public – discuss if the reason for the request itself is defined solely, in part or not all, under the definition Of interest to the public	It is not believed that this request is of public interest
	In the public interest – discuss if the reason for the request itself is defined solely, in part or not all, under the definition In the public interest	It is not believed that this request is in public interest
	Discuss if the requirement to release the information is either in the best interest of the public vs the need not to release?	We do not believe that there is a public interest
<b>Outcome</b>		<b>Recommendation is to uphold the exemption of S43(2)</b>