

Nicola Hesketh  
Project and Information Coordinator

**Our Ref: FOI5445/NH/02**  
**Please ask for: Nicola Hesketh**  
**Direct dial: 01827 709266 / 01827 709587**  
**E-mail: [FOImailbox@tamworth.gov.uk](mailto:FOImailbox@tamworth.gov.uk)**

[Name Redacted]  
WM M. Briers and Sons

10<sup>th</sup> October 2018

Dear [Name Redacted]

### **Freedom of Information – Request for Information**

With regards to your recent enquiry for information held by the Authority under the provisions of the Freedom of Information Act, please find the information you requested below with reference in the box to your original enquiry for clarity where multiple answers are required.

#### **Details of Your Request**

As I would however like to improve and learn more regards improving our responses with in the tender process in order we may obtain better results in the future, as you can appreciate we are only a small local company and do not have the resources to that associated with a huge PLC, may I request as of a FOI request to see their responses to which we may learn from to which you may wish to exclude the price matrix as not to compromise any financial aspects of this request.

#### **The response to your request as follows:**

**I can confirm the authority holds the information requested, however the information requested is considered exempt under Section 43 of the FOI Act and therefore is being withheld.**

**Further information can be found in the attached refusal notice.**

#### **IMPORTANT NOTICE ABOUT USE OF INFORMATION PROVIDED UNDER THE FREEDOM OF INFORMATION ACT (FOIA)**

Most of the information that we provide in response to Freedom of Information Act 2000 requests will be subject to copyright protection. In most cases the copyright will be owned by Tamworth Borough Council. The copyright in other information may be owned by another person or organisation, as indicated on the information itself.

You are free to use any information supplied for your own non-commercial research or private study purposes. The information may also be used for any other purpose allowed by a limitation or exception in copyright law, such as news reporting.

However, any other type of re-use, for example by publishing the information in analogue or digital form, including on the internet, will require the permission of the copyright owner. For information where the copyright is owned by Tamworth Borough Council details of the conditions on re-use can be provided on application to the contact below.

For information where the copyright is owned by another person or organisation you must apply to the copyright owner to obtain their permission.

This council also believes in transparency of information, this includes requests made under the Freedom of Information Act and the Environmental Information Regulations and we reserve the right to publish these requests in our Disclosure Log along with the response, the requestors name and/or company where the information is requested on a regular basis. Care shall be taken not to publish your email address or physical address where it is considered personal information as defined under the General Data Protection Regulation 2018.

Project and Information Coordinator,  
Tamworth Borough Council,  
Marmion House,  
Lichfield Street,  
Tamworth,  
B79 7BZ

Details of Tamworth Borough Council's internal review and complaints procedure are attached, in accordance with the provisions of the Act.

Yours Sincerely

Nicola Hesketh  
Project and Information Coordinator

Refusal notice: FOI5445

The contents of the successful tender bid, submitted in confidence, are deemed commercially sensitive and it would potentially be damaging to the business of the successful bidder to share their service delivery methodology and pricing with third parties and would likely to prejudice the commercial interests of all parties concerned.

It is considered that it would not be in the public interest to release this information requested within the scope of your request as it is likely to be damaging to the business of the successful bidder. It might also have a negative impact on fair competition in future tender processes and that it is not common knowledge and would likely to be used by competitors in a particular market to gain a competitive advantage

It is also considered, the disclosure of such information would be damaging to the Council's commercial interests as it would be likely to:

- (a) Discourage companies/individuals from providing the Council with commercially sensitive information in the future or undertaking contracts with the Council.
- (b) Adversely affect the Council's bargaining position during future contractual negotiations

**Section 43(2)** – 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).

To note: Disclosure under the Act's provisions should also be considered as being made to the wider world and not to a particular individual for a particular purpose.

This exemption is subject to the Public Interest test.

**Public interest for disclosure:**

- Transparency in the accountability of public funds
- Demonstrate its procurement processes are fair, open and transparent

**Public Interest for non-disclosure:**

- There is a strong public interest in ensuring that bidders do not suffer disadvantages as a result of contracting with public authorities.
- If market sensitive information provided as part of tender / contract processes were divulged, this would be likely to assist competitors in gaining an advantage in the open market and thereby prejudice the commercial interests of the successful bidder
- To disclose information falling within this exemption would make it less likely that companies or individuals would bid for contracts or provide the Council with commercially sensitive information in the future. This would be likely to prejudice the Council's ability to fulfil its role of obtaining as many competitive bids as possible and it is in the public interest that the Council obtains the best possible value for money.

We believe that the balance of public interest lies in favour of maintaining the exemption in this instance. As a result, refuse the request under section 43(2) of the Act.

While the Council is unable to provide you with a copy of the successful bidder's tender response, I can provide you with the following information:

- Successful Bidder: Biffa Waste Services Ltd with further information available on our website at: <https://www.tamworth.gov.uk/spending-summary>