



Information Governance Team

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Dear Sir/Madam

Freedom of Information Act 2000 (FOIA)
Request ID: FOI337118057

Thank you for your request for information relating to Code Operator Agreements.

You have requested the following information:

Please treat this email as a request under the Freedom of Information Act for the following information pertaining to agreements which Coventry City Council may have entered into with any of the following organisations (Code Operators) since 28 December 2017:

- a) EE Limited
- b) Hutchison 3G UK Limited
- c) Arqiva Services Limited
- d) On Tower UK Limited
- e) Airwave Solutions Limited
- f) Cornerstone Telecommunications Infrastructure Limited (CTIL)
- g) Vodafone Limited; and
- h) Telefonica O2 UK Limited

Please provide the following information in respect of those agreements:

- 1) The number of agreements with the any of the Code Operators that were renewals of existing agreements and the number of agreements relating to new sites no new sites.

We can advise that the number of renewals since 28/12/2017 is 3 sites.

2) Where the agreements were renewals of existing agreements, the rent paid under the previous agreement and the consideration paid under the renewed agreement;

It is confirmed that the Council does hold information pursuant to your request. However, it is our view that the information is exempt from disclosure under Section 43(2) – Commercially Sensitive Information. Section 43(2) exempts information from disclosure where disclosure of that information 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).

It is the Council's position that the third-party providers and its own commercial interests would be prejudiced and/or would be likely to be prejudiced by the disclosure of the requested information. Once the information is disclosed this means that it will be in the public domain and it could not only be used by the requester but also any other providers in a similar market. Section 43(2) is subject to the public interest test which is shown below:

Arguments in favour of disclosure.

- Promote accountability and transparency for the Council's decisions and in its spending of public money.
- Assist the public to understand and challenge our decisions.
- Inform the public of the activities carried out on their behalf, allowing for more user involvement and collaborative decision making.
- Enable the public to better scrutinise the public monies spent

Arguments against disclosure

- There is a public interest in allowing public authorities to withhold information which if disclosed, would reduce providers' ability to compete in a commercial environment
- The successful providers operate in a competitive market. If prejudicing the commercial interests of the successful providers in the market would distort competition in that market, this in itself would not be in the public interest
- Disclosure of information may cause unwarranted reputational damage or loss of confidence in the Council
- Revealing such information can be detrimental to a provider's commercial interest. If an organisation has knowledge of a provider's business model, it can exploit this for its own commercial interest. This would also have a detrimental impact on the Council on other contracts and procurements by distorting the market, for the reasons stated above.

Having taken into account the arguments for and against disclosure, the Council has decided that the public interest in this case is best served by maintaining the exemption under section 43(2) FOIA and by not disclosing the information requested.

The decision to withhold the information requested is therefore upheld on the basis that Section 43(2) in relation to commercially sensitive information has been applied correctly.

3) Any legal costs incurred by the Council in dealing with these agreements and which was not paid by the Code Operators.

Operators covered capped legal costs, which is the majority of costs incurred.

The supply of information in response to a Freedom of Information request does not confer an automatic right to re-use the information. You can use any information supplied for the purposes of private study and non-commercial research without requiring further permission. Similarly, information supplied can also be re-used for the purposes of news reporting. An exception to this is photographs. Please contact us if you wish to use the information for any other purpose.

For information, we publish a variety of information such as: [FOI/EIR Disclosure Log](#), [Publication Scheme](#), [Facts about Coventry](#) and [Open Data](#) that you may find of useful if you are looking for information in the future.

If you are unhappy with the handling of your request, you can ask us to review our response. Requests for reviews should be submitted within 40 days of the date of receipt of our response to your original request – email: infogov@coventry.gov.uk

If you are unhappy with the outcome of our review, you can write to the Information Commissioner, who can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or email icocasework@ico.org.uk.

Please remember to quote the reference number above in your response.

Yours faithfully

Information Governance