



Information Governance Team

Postal Address:
Coventry City Council
PO Box 15
Council House
Coventry
CV1 5RR

www.coventry.gov.uk

E-mail: infogov@coventry.gov.uk
Phone: 024 7697 5408

31 August 2023

Dear Sir/Madam

**Freedom of Information Act 2000 (FOIA)
Request ID: FOI536514972**

Thank you for your request for information relating to Requirements for a Legally executed contract by the council.

You have requested the following information:

1. What are the legal requirements for a contract to be considered legally executed by the council, for example when the council contract a third party debt collection like Equita, what is required to make the contract legally binding.

In response to Question 1, we confirm the information you requested falls under the exemption(s) in Section 21 of the Freedom of Information Act 2000, which relates to 'information reasonably accessible to the applicant by other means.'

The exemption applies as the information is published and publicly available to view by accessing the Contract Procedure Rules, which the Council are required to follow when entering into contracts. This can be found at Part 3G of its Constitution on the Council website, please use the following link:

<https://www.coventry.gov.uk/constitution>

This exemption is not subject to the public interest test.

2. Are you required to disclose evidence of this contract or a copy of the authority notice to the debtor on request? and what is the process a debtor must follow to get disclosure.

With regards to disclosing evidence of the contract with third party debt collection agencies to debtors on request, 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.

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 would not be in the public interest.
- Disclosure of information may cause unwarranted reputational damage or loss of confidence in the Council.
- Revealing information such as a pricing mechanism 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 considered 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. As you have not specifically made a request for a particular contract, the Council has not gone on to fully consider the public interest test in this response.

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.

However, as per our duty to advise and assist, the Council would add that it can always confirm with a debtor that an enforcement agent is genuinely appointed by the Council and the Enforcement Agent is required to provide evidence that they are acting on behalf of the relevant Local Authority. A debtor can request this from any attending enforcement agent. For further information on this, please refer to the below link:

<https://www.nationalbailiffadvice.uk/Bailiff-Refused-To-Show-ID-or-Enforcement-Power.html>

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