



11 September 2020



Dear 

Freedom of Information Act 2000 request – reference CA90

I write with reference to your request received on 14 August 2020 reference CA90 and our acknowledgement of 19 August 2020. Please find the response provided below.

Question:

As a first preference, we would like to request copies of all the RFPs submitted by various e-scooter operators. There were approximately 15 separate RFPs in total submitted by operators including Spin Mobility Limited. We are requesting this information for two reasons: 1) to better understand the basis or rationale for the evaluation/scoring, and 2) to inform our approach to future RFPs.

As a secondary preference, Spin requests a copy of the winning contract bid RFP by “Voi Technology UK Limited.” We seek to compare our RFP to a copy of the winning RFP in order to note the respective differences

Answer:

For the avoidance of doubt, the RFPs [Request for Proposals] is the document produced by the Combined Authority. We have responded on the basis that what you require is the responses to the RFP submitted by interested parties. The Combined Authority does hold the information you have requested but for the reasons set below will not be disclosing it to you.

Section 43(2) of the Freedom of Information Act 2000 provides that:

(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)

In order for this exemption to be engaged the following criteria must be met

- *the actual harm which the public authority alleges would, or would be likely to, occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;*

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- *the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and*
- *it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie disclosure ‘would be likely’ to result in prejudice or disclosure ‘would’ result in prejudice.*

The Information Commissioner’s guidance on the commercial interests exemption at section 43, which is available at:

[Commercial Interests Exemption](#)

explains that:

“would...prejudice” means that prejudice is more probable than not, ie that there is a more than 50% chance of the disclosure causing the prejudice, even though it is not absolutely certain that it would do so. “Would be likely to prejudice” is a lower threshold. It means that there must be more than a hypothetical or remote possibility of prejudice occurring; there must be a real and significant risk of prejudice, even though the probability of prejudice occurring is less than 50%.

And defines “commercial interest” as follows:

“...a commercial interest relates to a person’s ability to participate competitively in a commercial activity, i.e. the purchase and sale of goods or services.”

Section 43(2) is a qualified exemption and is therefore subject to public interest considerations.

It is the Combined Authority’s view that disclosure of the individual responses to the RFP or a copy of the winning bid would be likely to prejudice the commercial interests of both the Authority and the individual participants in the procurement process.

Were the Authority to disclose the responses or the winning bid it could affect its ability to contract services at a competitive rate in the future by making potential bidders reluctant to engage with procurement exercises for fear of any commercially sensitive information provided in their bid being disclosed to their competitors. Parties who were well placed to submit competitive bids in future procurement exercises might therefore decide not to do so thereby undermining the Authority’s ability to procure goods and services at competitive rates and prejudicing its commercial interests.

The responses requested contain commercially sensitive information about the individual participants’ business models, pricing and methodologies for providing the required service. The provision of services relating to e-scooters is still a relatively niche market where providers may have unique business models vulnerable to being copied by their competitors and leading to them being undercut in subsequent procurement exercises.

The section 43(2) exemption is therefore engaged. The Combined Authority must therefore consider the balance of public interest in deciding whether to disclose the information.

There is clearly a general public interest in public bodies being open, transparent and accountable. There is also a public interest in matters such as how safety is addressed in the procurement process.

However there is also a public interest in public bodies being able to procure goods and services effectively without potential bidders being reluctant to participate for fear of their commercially sensitive information being disclosed to competitors.

On balance the Combined Authority takes the view that the public interest arguments in favour of maintaining the exemption and withholding the information, in particular the arguments about the likely prejudice to both the Authority's and participants' commercial interests, outweigh the public interest arguments in favour of disclosure.

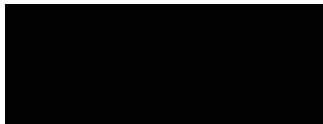
Your request for information is therefore refused.

I hope this information is helpful but if you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review, you should write to us via our contact us email address – contactus@cambridgeshirepeterborough-ca.gov.uk or write a letter to Complaints, Cambridgeshire and Peterborough Combined Authority, the Mayor's Office, 72 Market Street, Ely, Cambs CB7 4LS within 40 days of the date of this e-mail.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or via their website: <https://ico.org.uk/>

Generally, the ICO will not undertake a review or make a decision on a request until the internal review process has been completed.

Yours sincerely

A black rectangular box redacting the signature of Sue Hall.

Sue Hall
Governance Assistant