

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 May 2018

**Public Authority:** London Borough of Redbridge Council  
**Address:** Town Hall  
128-142 High Road  
Ilford  
Essex  
IG1 1DD

### Decision (including any steps ordered)

---

1. The complainant made a freedom of information request to Redbridge London Borough Council ("the Council") for details of its insurance premiums. The Council refused the request under the exemption in section 43(2) (commercial interests) of FOIA.
2. The Commissioner's decision is that the section 43(2) exemption is not engaged.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The Council shall disclose the requested information to the complainant.
4. The public authority must take these steps within 35 calendar days of the date of this Decision Notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

---

5. On 5 July 2017 the complainant submitted a freedom of information request to the Council regarding its insurance contract. The request read as follows:

*"The below is a link to Redbridge i which shows the 2010 insurance contract value (with Zurich Municipal) totalling £1.2m. I am now seeking some further information:*

*-Is the above 2010 £1.2m contract value for schools only or does this also include wider Council Services?*

*-If the above includes wider Council services, what element of it relates specifically to schools?*

*-Please provide annual contract values for 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018 (I assume the latter date here means 2017-2018, which is the final year).*

*-If the contract values above includes wider Council services, please let me have the specific apportionment for schools for each year."*

6. The Council responded to the request on 18 July 2017 when it explained that the information was exempt under section 43(2) and it had concluded that the public interest in maintaining the exemption outweighed the public interest in disclosure.
7. The complainant subsequently asked the Council to carry out an internal review of its handling of his request and it presented its findings on 13 September 2017. The review upheld the initial response to the request.

## Scope of the case

---

8. On 14 September 2017 the complainant contacted the Commissioner to complain about the Council's decision to refuse his request under the section 43(2) exemption.
9. In investigating the complaint the Commissioner asked the Council to provide her with a copy of the withheld information and a full explanation of its reasons for refusing the request under the section 43(2) exemption. However, the Commissioner had already received a submission from the Council in respect of a related complaint involving a request for very similar information. Given the obvious similarities in the

requests and the reasons for withholding the information, the Commissioner explained that in providing its response the Council should feel free to refer to its earlier submission in the related case.

10. In response to the Commissioner's enquiries the Council provided a copy of the withheld information but nothing further on its reasons for refusing the request. Therefore, the Commissioner has assumed that the Council is relying on the same reasons for refusing the request as outlined in its refusal notice as well as the arguments which were described by the Commissioner in the previous case and has nothing further to add.
11. During the course of her investigation the Commissioner issued a decision notice on the earlier case where she found that the section 43(2) exemption did not apply to a request for details of the Council's insurance premiums for its schools.<sup>1</sup>

## Reasons for decision

---

### Section 43(2) – Commercial interests

12. Section 43(2) provides that information is exempt if disclosure would or would be likely to prejudice the commercial interests of any person.
13. The withheld information in this case comprises the cost of insurance premiums charged for school buildings for each of the years from 2010 to 2017 as well as the total cost of the Council-wide insurance premiums. The Council had already informed the complainant in the earlier case that the £1.2m figure paid to Zurich in 2010 (which the complainant quoted in his request) is a council wide sum. It does not have a separate insurance contract specifically for schools although the cost of insuring school buildings is included within the council-wide insurance contract.
14. In response to the request the Council said it was applying section 43(2) because "The information sought is of a commercially sensitive nature and its use by a competitor could prejudice the interests of either the London Borough of Redbridge or Zurich Mutual." It did not explain why

---

<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258449/fs50690091.pdf>

disclosure would prejudice those interests. It reiterated this at the internal review stage but added that the information "is of a commercially sensitive nature capable of giving advantage to a competitor". No further explanation was given.

15. In reaching her decision in this case the Commissioner relies on the arguments which she set out in the related FS50690091 decision notice and which apply equally here. In that case the Commissioner found that the Council should disclose details of the premiums paid to Zurich for school buildings from 2010 onwards because section 43(2) was not engaged.
16. The Council had argued in the earlier case that disclosure would prejudice Zurich's commercial interests because it would reveal how it calculates its premiums and it would allow a competitor to undercut Zurich in a future retendering exercise for insurance cover. The Council also suggested that its own commercial interests would be prejudiced because it would discourage bidders from coming forward thereby reducing competition.
17. The Commissioner does not intend to repeat her findings in full here. However, in summary, the Commissioner found that the following factors in particular led her to conclude that section 43(2) was not engaged.
  - The Council had failed to demonstrate how a competitor could use the information to calculate Zurich's premiums or its risk ratings.
  - Some schools within Redbridge had subsequently negotiated their own insurance cover and so any new contract would be different from previous years in that these schools would be excluded from the insurance cover.
  - It was the Commissioner's view that anyone submitting a bid as part of the retendering exercise for Council services was more likely to be guided by what is the market rate for this type of insurance cover rather than what the Council may have paid to Zurich in previous years.
  - Both the Council and Zurich's concerns appeared to be based on the disclosure of more extensive information and as such overestimated the consequences of disclosure.
18. In the previous decision notice the Commissioner ordered disclosure of the amount paid to Zurich to insure school buildings. This request also asks for the same information, albeit for previous years, and again the

Commissioner finds that section 43(2) is not engaged and this should be disclosed. However, the request which is the subject of this decision notice also asked for the total value of the Council-wide insurance contract which was not considered in the earlier request. For the avoidance of doubt, the Commissioner considers that her findings in the previous case also apply to this information. Furthermore, the Commissioner has also taken into account the fact that the Council saw fit to disclose the cost of its insurance contract with Zurich in 2010, presumably without any prejudice being caused to either Zurich or itself. The Commissioner is also mindful that the cost of insurance will be determined by many different factors including the level of cover, any insurance excess, fees etc. In the Commissioner's view disclosure of the total cost of the contract alone would not necessarily provide a competitor with the information needed to successfully secure a future contract or outbid Zurich.

19. Based on the arguments available to her, the Commissioner has decided that the Council has failed to demonstrate why disclosure would be likely to prejudice its interests or those of Zurich and consequently section 43(2) is not engaged.

## Right of appeal

---

20. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. If you wish to appeal against a Decision Notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Signed** .....

**Paul Warbrick**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**