

Public Health Agency - FOI 65/21

Appendix 1

Application of Exemption

Section 43 'Commercial Interests' (qualified)

The Public Health Agency has applied an exemption to the release of this information under Section 43 (2) of the Freedom of Information Act – Commercial Interests.

'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)'. Further information on this exemption is available from the Information Commissioner's Website at: <https://ico.org.uk/>

Having considered this request at length the Public Health Agency considers that release of the requested information will prejudice the Commercial Interests of both the Public Health Agency and the contractor who supply goods and services to it. There are a number of factors which have led the Public Health Agency to apply this exemption:

- Section 43 protects not only the commercial interests of third parties but also the commercial interests of the public authority that holds the information;
- Public authorities will need to bear in mind that the commercial sensitivity (particularly the market sensitivity) of information will usually decrease with time;
- Section 43 is subject to the public interest test.

Public Health Agency - FOI 65/21

Appendix 2

Public Interest Test:

The exemption 'Commercial Interests' as detailed in Section 43 of the Freedom of Information Act is known as a qualified exemption which means that it is subject to the Public Interest Test as detailed in Section 2 of the Act. The purpose of this test is to establish whether the public interest in withholding the information outweighs the public interest in disclosing it.

In favour of release

- Release of information relating to the expenditure of public monies, provides citizens with the means to scrutinise the use to which these monies are put.

Against release

- Release of commercially sensitive information could detrimentally impact the business relationship between the Public Health Agency as purchaser of these services and providers.
- The Public Health Agency is a major purchaser of goods and services in Northern Ireland. The Public Health Agency is dependent on the procurement of these goods and services to ensure it continues to fulfil its key functions. The Public Health Agency is of the opinion that to release this information would have the potential to reduce the Public Health Agency's ability to obtain and retain provision of goods and services at competitive rates from suppliers therefore prejudicing commercial interests.
- Total spend is provided to satisfy the purpose of the request.

Public Health Agency - FOI 65/21

Based on the arguments identified above, the Public Interest Test is not met through release of the exempt material. We consider that the providers in question would not willingly release such information into the public domain as releasing the information would prejudice their commercial interests, with potential to compromise their capacity to provide the most economically efficient service.

To conclude, the Public Health Agency has provided justification for the application of this exemption and has shown that the public interest in maintaining this exemption outweighs the public interest to release.