

Date: 11/11/2020

Our Reference: FOIA-2020-123

RE: Freedom of Information Act 2000 Request

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 14/10/2020 in which you requested:

"1. Please provide the details of the supplier for the online examination. That includes the name of the supplier, address and contact details.

2. Please provide details of anyone with a propriety interest in the supplier above from the College of Policing.

3. Please provide details of the testing procedure put in place to ensure that the online platform was of sufficient quality and rigor for the number of candidates registered to complete the examination. Alongside this, please provide the details of the officer or staff member who authorised that the systems in place were fit for purpose allowing the examination to take place yesterday.

4. Please provide details of the cost to hold the examination online through this supplier and who authorised this expenditure.

5. Please provide details of your system and processes in relation to any potential failure with the online examination process (including contingencies and response)."

When a request for information is made under FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant. If a public authority decides that the information should not be disclosed because an exemption applies, it

must, under section 17(1) cite the appropriate section or exemption of the Act and provide an explanation for relying upon it.

It is important to note that a freedom of information request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the legislation, it is then considered public information and must be communicated to any individual should a request be received. In light of this, our responses and disclosures are published on our external website at a later date. This should be borne in mind where a request is made for personal data of named individuals.

Decision

After conducting careful searches for any information relevant to your request I can confirm that there is information held. I will answer each of your questions individually below.

- 1. Please provide the details of the supplier for the online examination. That includes the name of the supplier, address and contact details.**

The College of Policing entered in to an agreement with the Cabinet Office, to use a platform supplied by PSI. Through this agreement the Cabinet Office acted as the contractual supplier of services.

Address and contact details are publically accessible online.

- 2. Please provide details of anyone with a propriety interest in the supplier above from the College of Policing.**

There is no one within the College of Policing that has a propriety interest in the supplier.

- 3. Please provide details of the testing procedure put in place to ensure that the online platform was of sufficient quality and rigor for the number of candidates registered to complete the examination. Alongside this, please provide the details of the officer or staff member who authorised that the systems in place were fit for purpose allowing the examination to take place yesterday.**

The online examination solution was procured and implemented in a short, extraordinary period of time to meet policing requirements for virtual assessments during the Covid-19 pandemic. As such, as proportionate due diligence we asked the supplier about the demands and were assured:

“We have delivered 265,000 assessments in a 4 week period on this particular server with over 3000 concurrent users at once with no effect on the system no delays or slowness to the system”

As it would be unlikely all candidates would access the system at one given time during the twelve hour examination period, we therefore felt this testing was reasonable.

Director of Workforce Development, Jo Noakes authorised the use of the system.

4. Please provide details of the cost to hold the examination online through this supplier and who authorised this expenditure.

The maximum value of the agreement is £78,002.85 which allows multiple examinations to be delivered throughout a 12 month period.

Detailed information regarding the cost of the examination has been exempted under Section 43(2) of the Act. For further information please see **Appendix A**.

This was signed off by our Category Manager and Head of Procurement, who have delegated authority from the Home Office as per our agreement with the Cabinet Office. Names have been exempted under Section 40(2) of the Act. For further information please see **Appendix A**.

5. Please provide details of your system and processes in relation to any potential failure with the online examination process (including contingencies and response).

The process in place was for the College of Policing to gather relevant information and report directly to PSI for serious issues. PSI provided technical support during the examination process as per our Service Level Agreement. We provided information to PSI regarding the issues as soon as possible to seek a resolution.

Your rights are provided in **Appendix B**.

Yours sincerely,

Legal Services Team

Information Management and Legal Team

College of Policing

Email: FOI@college.pnn.police.uk

Website: www.college.police.uk

Appendix A

Section 40(2) – Personal Information

40 ... (2) Any information to which a request for information relates is also exempt information if-

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

Under section 40(2) FoIA (by virtue of section 40(3A)), personal data of a third party can be withheld if it would breach any of the data protection principles to disclose it. Personal data is defined in section 3(2) of the Data Protection Act 2018 as:

‘any information relating to an identified or identifiable living individual’

Section 3(3) defines an identifiable living individual as ‘a living individual who can be identified, directly or indirectly, in particular by reference to –

- (a) an identifier such as a name, an identification number, location data or an online identifier, or
- (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual’

The two main elements of personal data are that the information must ‘relate’ to a living person and that the person must be identifiable. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them, and has them as its main focus or impacts on them in any way. As such, it is our view that the information in question is categorised as personal data.

The data protection principles are given under Article 5 of the General Data Protection Regulation (GDPR). Article 5(1)(a) states that personal data shall be ‘processed lawfully, fairly and in a transparent manner in relation to the data subject’. We consider that respondents would have a reasonable expectation that information about themselves shared with the College, would not be disclosed any further. It would not be fair and hence, a breach of Article 5, to put this information into the public domain without express consent having been given. For your information, section 40(2) in these circumstances is an absolute exemption and there is no requirement for the public interest test to be considered.

Disclosure of names creates a significant risk of individuals being identified, rendering the data in question to be ‘personal data’. For the reasons given, further disclosure cannot be

adduced as fair processing activity and as such, action to this effect would be a breach of Article 5 of GDPR. It is for this reason that the College has withheld the information requested under section 40(2), by virtue of section 40(3A).

Section 43(2) – Commercial Interests

Section 43(2) provides –

‘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).’

The provision to refuse access to information under Section 43(2) of the FoIA 2000 is both qualified and prejudice based. As such, I am required to establish the nature of the prejudice and/or harm that may result from disclosure and I must conduct a public interest test to determine whether the public interest lies in disclosing or withholding the requested information.

Prejudice and harm considerations

The requested information in this instance relates to financial details of procurement by the College of Policing of an online platform for examination processes. I consider that the disclosure of further detail regarding the cost of the online examination would be likely to be prejudicial to the commercial interests of the College and risk undermining the commercial position of the College in future negotiations with suppliers, in turn impacting on the spending of public money. The disclosure of specific details regarding cost would be detrimental to the College’s ability to negotiate other contracts and procurements, allowing exploitation for profit or other gain. In addition to this, disclosure of certain information would result in loss of supplier confidence and damage the relationship of trust that we have with them.

Public interest considerations favouring disclosure

As a publicly funded body and from an ethical perspective, the College accepts it has a duty to make appropriate information available to the public wherever possible. Additionally, we appreciate that spending of public money is a matters of strong public interest.

There is a clear public interest in making financial information available to the public. The release of such information promotes transparency and provides reassurance to the public regarding expenditure on training received by the Police.

Public interest considerations favouring non-disclosure

The College must also consider the wider impact of disclosing detail. A disclosure under the FoIA 2000 is a disclosure to the public at large; consequently, disclosure of the requested information would be likely to be prejudicial to the commercial interests of the College.

There is a public interest in withholding information which, if disclosed, would reduce the ability of the College to compete in a commercial environment. Disclosing the specific information sought by this request would be detrimental to the College's ability to negotiate other contracts and procurements, allowing exploitation for profit or other gain. In addition to this, disclosure of certain information would result in loss of supplier confidence and damage the relationship of trust that we have and, in turn, damage the commercial interests of the College.

Evaluation

On balance, I consider that the harm of disclosure and the public interest in withholding the information outweighs the public interest in disclosing the information. Whilst I acknowledge and accept the benefits of transparency, I am not of the view that they outweigh the potential detrimental impact on the College's commercial interests. There is a very real public interest in protecting the College's ability to negotiate with suppliers and procure services. As such, detailed information is being withheld under section 43 (2) of the FoIA 2000.

Appendix B

Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113