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DYFED-POWYS
POLICE AND CRIME
COMMISSIONER

FOI Ref: OPCC 8-16

Request

“Please treat this as a request under the freedom of information act.

- 1. What (if any software) do you use to monitor/process FOI requests?*
- 2. Is that software externally purchased, if so please can you provide the name of the company*
- 3. Please provide the cost of purchasing it or the cost of the internal development*
- 4. What software do you use to look after your organisations assets?*
- 5. Is that software externally purchased, if so please can you provide the name of the company*
- 6. Please provide the cost of purchasing it or the cost of the internal development”*

Response 1:

I can confirm that the Office of the Police and Crime Commissioner (OPCC) does hold the requested information, as detailed below:

InPhase Software

Please Note: The software is a ‘Business and Performance Management Tool’ and is not used solely for monitoring FOI requests.

Response 2:

I can confirm that the Office of the Police and Crime Commissioner (OPCC) does hold the requested information, as detailed below:

InPhase

Response 3:

Section 1 of the Freedom of Information Act 2000 places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17 of the Freedom of Information Act 2000 requires Dyfed Powys Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

I can confirm that the Office of the Police and Crime Commissioner (OPCC) does hold the information requested, however we are withholding the information since we consider that the following exemption applies to it:

Section 43(2) Commercial Interests

“(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice commercial interests of any person (including the public authority holding it).”

This is a qualified and class based exemption. As a class based exemption, legislators have already accepted the harm in release of this class of information. As a consequence there is no requirement to evidence the harm in disclosing such information. However, as the exemption is a qualified exemption there is a requirement to apply the public interest test, as detailed below:

Public Interest Test:

Considerations Favouring Disclosure:

There is a requirement to provide to the general public a better understanding of how public funds are spent. One of the underlying principles of the Act is the need for openness and transparency. In this case, there is a public interest in establishing that Dyfed Powys Police has negotiated a competitive rate in relation to the externally purchased software.

Considerations Favouring Non-Disclosure:

The police service has a moral duty to protect the sensitive commercial information it holds about any individual, authority or private company they have dealings with. In this case, to release details in relation to the cost of externally purchased software may provide an unfair advantage to one company if they wish to undercut another during any forthcoming tendering process through the disclosure of a specific product cost. Furthermore, disclosure would be likely to prejudice the commercial interests of the current supplier by adversely affecting its bargaining position during contractual negotiations which would result in the less effective use of public money.

To provide details in relation to the cost of externally purchased software would not only prejudice the commercial interests of the company/supplier but also that of the Office of the Police and Crime Commissioner (OPCC). To release this information may also affect the competitiveness of the contract which in turn would affect the relationship the force has with those companies/suppliers or individuals which could result in civil action from a third party.

Furthermore, any disclosure of current sensitive contractual information with regards to the suppliers/companies would inevitably undermine/damage and compromise the current ongoing tender process. Furthermore, disclosing the cost of externally purchased software may prohibit the Office of the Police and Crime Commissioner (OPCC) from being able to negotiate a contract that is of maximum benefit.

Balancing Test:

When balancing the public interest test we have to consider whether the information should be released into the public domain. Advantages and disadvantages of disclosure need to be weighed against each other. In this case there is the use of public funds favouring disclosure which needs to be weighed against the damage that would occur to any ongoing or future tender process and the commercial interests of third parties.

By releasing the requested information the commercial interests of a business and individuals may be compromised including that of the Office of the Police and Crime Commissioner (OPCC), along with the relationship the OPCC has with that company/supplier or persons. Therefore, the factor favouring non-disclosure, which is damage would occur to any future tender process and the commercial interests of third parties outweighs the factor favouring disclosure, which is better understanding of how public funds are spent.

As such, the public interest favours non-disclosure of the information at this time.

Therefore in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

However, please be advised that the estimated contract value has been published via the Blue Light Procurement Database and I have included the hyperlink below, which may be helpful to you:

This is a response under the Freedom of Information Act 2000 and disclosed on the 25th February 2016

<https://www.blpd.gov.uk/foi/foicontractview.aspx?contractid=27598>

Response 4:

I can confirm that the Office of the Police and Crime Commissioner (OPCC) does hold the requested information, as detailed below:

Microsoft Excel

Response 5:

I can confirm that the Office of the Police and Crime Commissioner (OPCC) does hold the requested information, as detailed below:

Microsoft

Response 6:

I can confirm that there is no information held by the Office of the Police and Crime Commissioner (OPCC).