# Section 3: Freedom of Information

**Introduction**

All information relating to any RFQ made to the Council or any contract to which the Council is party, including information arising under the contract or about its performance is subject to the ‘Freedom of Information Act 2000’ (FOIA) and ‘Environmental Regulations 2004 (EIR) irrespective of when that contract was entered into. The council will be under obligation to disclose such information unless an exemption applies.

The legal obligation to respond to a request for information falls on the council **as does the ultimate** **decision about disclosure**. The Council alone has the duty to determine whether an exemption applies to information and whether the request should be acceded to or refused.

Any person dealing with the council, must inform the council of information which that person regards as being eligible for exemption from disclosure under the FOIA and EIR. Such information will be called **reserved information.**

This guidance sets out the approach of the council to the disclosure of information about pre-qualification responses/contracts.

**General rules on disclosure**

In the absence of special circumstances:-

1. The RFQ will be available under the FOIA and EIR.
2. Responses to the RFQ will be held in confidence until award of the contract.
3. All RFQs will normally be made available under the FOIA and/or EIR to those who enquire unless, as part of the RFQ process, the bidder has notified the council that it regards any of the information supplied with the RFQ to be **reserved information** falling within the categories listed below.
4. The Council will make information about the global pricing of bids available under the FOIA and/or EIR after award of the contract. However, the bidder may notify the Council that it considers unit prices or more detailed pricing information should be **reserved information** falling within the categories listed below.

**Reserved information**

Where such information relates to a response it must be contained in a separate schedule within the submitted RFQQ documentation. Where such information relates to a contract it must be contained in a separate schedule to the contract.

In either case, the schedule will:-

1. List the class or category of information or the information itself;
2. Specify which exemptions under the FOIA and/or EIR the bidder considers apply to each specified class, category or item of specific information; and
3. The schedule shall indicate when the bidder considers that the information can be made available under the FOIA and/or EIR.

The grounds of the exemption which must be specified under 2 above may be one or more of the following:-

* That the information constitutes a trade secret and is eligible for exemption under section 43(1);
* That the disclosure of the information would prejudice the commercial interest of any person (section 43(2));
* That the information to be disclosed by the contractor and nature of the information, or the circumstances in which it is imparted or the circumstances are otherwise such as to justify the acceptance by the council of any obligation of confidence in respect of it (section 41(1));
* That the information is personal data or otherwise relates to the private life of any individual which is appropriate for protection (section 40);

**Information relating to the performance of the contract itself**

Information relating to the overall value, performance or completion of the contract will not be accepted as reserved information. The Council may however withhold access to such information under the FOIA and/or EIR in appropriate cases. The decision as to whether to withhold this information shall be for the Council alone to determine and there shall be no obligation to consult the contractor.

**Contract records and administration**

Information relating to contract records and administration may not be proposed as reserved matters. The Council may however withhold access to such information under the FOIA and/or EIR in appropriate cases. The decision as to whether to withhold information is for the Council alone to determine and it shall have no obligation to consult the contractor. It is the Council’s duty to publish data of expenditure over £500 under the Government’s transparency regulations. This information can be found on the Council’s website; [www.Knowsley.gov.uk](http://www.Knowsley.gov.uk)

**Handling requests for information and notice to those affected**

Other than as set out above the Council shall have no obligation to consult the contractor where any request for information, whether under the FOIA and/or EIR or otherwise, touches or concerns the contract.

**Information about the provision of the service which is the subject matter of the contract which arises in the course of performance of the contract**

The Council will have obligations to respond to FOIA and other requests for information and the contract will include appropriate terms requiring the contractor to supply such information as requested by the Council.

Any enquiries about this policy and its application should be addressed to

[foi@knowsley.gov.uk](../../../hollinsheadl/Local%20Settings/Temp/foi%40knowsley.gov.uk)

**Bidders should note that it is the Council’s statutory duty to make the final decisions whether information is released.**