

Date: 13/11/19
Our Ref: RFI2814
Your Ref: FOI Request – Birmingham City Council Funding
Tel: 0300 1234 500
Email: foi@homesengland.gov.uk



Homes
England

[REDACTED]
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear [REDACTED]

RE: Request for Information – RFI2814

Thank you for your request for information, which was processed under the Freedom of Information Act 2000 (FOIA). For clarification, you requested the following information:

Please provide copies of any funding agreements between Homes England or the Homes and Communities Agency at a regional or national level, and Birmingham City council, from 2010 onwards.

If you cannot send all of this information, or full copies of the funding agreements, please send what you do have.

Response

We can confirm that Homes England holds the information that falls within the scope of your request. However, we are relying on the following exemptions within the FOIA to withhold this information;

- Section 21; and
- Section 43(2)

Section 21 - Information accessible to applicant by other means

We can confirm that we hold copies of funding agreements between Homes England and Birmingham City Council however, for some of the information held we rely on Section 21(1) of the FOIA.

The full text of the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

Homes England use precedent forms (standard non-negotiable templates) of agreements which is a standardised approach across its affordable housing programmes. Birmingham City Council has participated in a number of Affordable Housing Programmes, the standard forms of agreement for which can be found on our website on GOV.UK.

- The published SOAHP 16-21 contracts can be found here;
<https://www.gov.uk/government/collections/shared-ownership-and-affordable-homes-programme-2016-to-2021-guidance#shared-ownership-and-affordable-homes-programme-2016-to-2021-standard-form-contract->
- The SOAHP 16-21 allocations are published here and include Birmingham City Council;
<https://www.gov.uk/government/publications/shared-ownership-and-affordable-homes-programme-2016-to-2021-summary-end-of-march-2018>

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- The published AHP 15-18 contracts can be found here;
<https://www.gov.uk/government/publications/affordable-homes-programme-2015-to-2018-affordable-homes-contract>
- The Empty Homes Agreement can be found here;
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/493247/Empty_Homes_Contract_AHP_2015_to_2018_for_LA_Registered_Provider_.pdf
- The published NAHP 11-15 Framework Delivery Agreements can be found here;
<https://www.gov.uk/government/publications/affordable-homes-programme-2011-to-2015-framework-delivery-agreements>

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

Some of the information requested relating to funding agreements between Homes England (legal entity the Homes and Communities Agency) and Birmingham City Council engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of the affordable housing programmes.

The full text of in the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/43>

Section 43 is a qualified exemption. This means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether it is in the wider public interest for the information to be disclosed.

Arguments in favour of disclosure:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money.

Arguments in favour of withholding:

- Releasing information that forms part of a commercial contractual agreement surrounding the programme would be likely to compromise the operational element of the affordable housing programmes;
- Releasing the information could reveal financial information of both parties which may in turn affect their commercial interests;
- Releasing information in relation to one party in a competitive market would be likely to distort competition, making it a less competitive process, which would not be in the public interest; and
- Disclosure would result in local authorities being deterred from including commercially sensitive information in applications. This will mean that Homes England has to evaluate bids that are less comprehensive than would otherwise have been the case, meaning that Homes England's ability to undertake due diligence on

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the bids will be impaired. This will result in decision makers not taking all relevant information into account, meaning the decisions will be less robust and less likely to deliver value for money.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours non-disclosure.

Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled you may request an internal review by writing to;

The Information Access Team
Homes England – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Or by email to foi@homesengland.gov.uk

You may also complain to the Information Commissioner however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link

<https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

Information Access Team

For Homes England