

Office of the Pubs Code Adjudicator  
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Victoria Square House  
Victoria Square  
Birmingham  
B2 4AJ

Email: [office@pubscodeadjudicator.gov.uk](mailto:office@pubscodeadjudicator.gov.uk)

30 December 2021

██████████,  
**Request under the Freedom of Information Act 2000;** ██████████

Thank you for your email, received on 1 December 2021, in which you requested information from the office of the Pubs Code Adjudicator (PCA) under the Freedom of Information Act 2000 (the FOI Act).

The FOI Act entitles you to:

- know whether the information you have requested is held by the PCA; and
- be provided with that information, subject to any exemptions in the Act which may apply.

On 1 December 2021 you made the following request for information held by the PCA:

1. *Details and or names of all those on the panel who made the decision to appoint CiArb*
2. *The number of other organisations that applied or made a bid for the contract*
3. *A copy of the new PCA / CiArb contract which is related the new referral service*
4. *A copy of the former PCA /CiArb contract which preceded the announcement (and is possibly still in force until Dec 12<sup>th</sup> 2021) which in a similar way non-exclusively supplied recommendations of arbitrators to the PCA since 2016*
5. *A copy of the former PCA/ RICS contract which preceded the announcement (and is possibly still in force until Dec 12<sup>th</sup> 2021) which in a similar way non-exclusively supplied recommendations of arbitrators to the PCA since 2016*

Your queries have been numbered for ease of reference.



# Pubs Code Adjudicator

## Question 1

The PCA does hold information relevant to your request. The names and/or further identifying details of these persons constitutes their personal data. In deciding whether to release personal data, the PCA must ensure there is a lawful basis for doing so. The most relevant lawful basis to consider in this case is whether disclosure is “necessary for the purposes of the legitimate interests pursued by the [PCA] or by a third party except where such interests are overridden by the interest or fundamental rights and freedoms of the data subject which require protection of personal data...” (UK GDPR Article 6 (1)(f)).

The PCA has considered whether it is “necessary” to disclose the requested personal data in order to serve the legitimate interest concerning transparency in the procurement process undertaken by a public authority. The information comprising the names and further details of the persons on the panel is however exempt from disclosure under s.40(2) of the FOI Act (personal data).

In this case three members of the PCA staff comprised the decision-making panel, all of whom are below the Senior Civil Service. Information relating to the contract (both its tender and outcome) are published on Contracts Finder (<https://www.gov.uk/contracts-finder>). It is not considered necessary to disclose the names of staff below the SCS in order to fulfil the aim of transparency in the process.

## Question 2

Four organisations submitted bids as part of the tender process.

## Question 3

The contract between the PCA and CI Arb is published on the Contracts Finder website, subject to redaction of some information in the document. Contracts Finder lets you search for information about contracts worth over a certain threshold with the government and its agencies, including details of awarded tenders and contracts

### *Information accessible by other means*

Information relating to the contract, which is subject to the redactions noted below, has been published on Contracts Finder (<https://www.gov.uk/contracts-finder>) and can be accessed online. The information is therefore exempt from disclosure by the PCA as it is reasonably accessible by other means (s.21 of the FOI Act).



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## *Commercially sensitive information*

Some information in relation to the contract is exempt from disclosure under s.43(2) of the FOI Act. This is because disclosure would be likely to prejudice the commercial interests of CI Arb on the basis that such information could provide a commercial advantage to other suppliers.

I have considered whether the public interest lies in releasing the information or whether it lies in maintaining the exemptions and withholding the information. I am of the opinion that the public interest favours withholding information that falls within your request that has not already been disclosed. There is a public interest in the transparency of contracts awarded and operated by public authorities, especially where these involve the authority carrying out its functions and/or providing services to the public. Financial information contained in the contract in respect of the total contract value and how this is attributed to different elements of the contracted services is included in the contract as published on Contracts Finder. More specific information relating to the commercial information more closely aligned with the individual bidder is redacted. I am satisfied that this allows the public to sufficiently understand the value of the contract and how the sums involved are being spent while protecting the commercial interests of the supplier, and upholding the public interest in ensuring that potential suppliers are not deterred from bidding for contracts because of the risk of commercially sensitive details being disclosed in future.

## Questions 4 and 5

Prior to this contract, the PCA has not had a contract with either CI Arb or RICS in respect of the appointment of alternative arbitrators. The office of the PCA therefore does not hold the information requested. Previously where the PCA has considered that it is appropriate to appoint an alternative arbitrator in respect of a dispute, the office of the PCA has approached either RICS or CI Arb to request an appropriate recommendation for a person to act as arbitrator on a case by case basis.

If you do not believe that the office of the PCA has provided an appropriate response to your request, you are entitled to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be made in writing, quoting the above reference, to [office@pubscodeadjudicator.gov.uk](mailto:office@pubscodeadjudicator.gov.uk) or:



PCA

4th Floor

23 Stephenson Street

Birmingham B2 4BJ

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

[Redacted signature]