



Homes
England

The Housing and Regeneration Agency

Date: 2 July 2024

Our Ref: RFI4746

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4746

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

Pursuant to the The Freedom Of Information Act please disclose any Housing Delivery Supply Agreements "HDSA" as between (1) Homes England and South Oxfordshire Housing Association Limited ("SOHA") and (2) Homes England and Sovereign Housing Association Limited (now styled "SNG").

Response

We can inform you that we do hold the information that you have requested. We are able to confirm that Homes England had a housing supply delivery agreement (HSDA) for South Oxfordshire Housing Association Limited (SOHA) as they entered into a grant funding agreement with Homes England for the Shared Ownership and Affordable Homes Programme (SOAHP) 2016 to 2021.

Sovereign Housing Association (SNG) entered into grant funding agreement with Homes England for the SOAHP 2016 to 2021 and the current Affordable Homes Programme 2021 to 2026 as part of a consortium. They therefore have a HSDA for both the previous and current Affordable Homes Programmes.

However, we rely on the following exemptions to withhold the information from disclosure.

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42 - 50 Victoria Street, Westminster
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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.

The information requested for a copy of the agreements 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 Affordable Homes Programme.

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 or not 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:

- The allocation of grant funding is subject to a robust assessment process that includes a detailed value for money review ensuring that we protect and allocate public funding efficiently and effectively. If this information were to be released, it is likely to drive reduced competition by encouraging developers to bid for the maximum grant possible, informed by grants given in other applications, under different circumstances. This could place pressure on the remaining programme budget and may result in the target number of homes not being met. This in turn could drive an unnatural increase in land and house prices which could impact market stability. Furthermore, this would not be in the public interest as this could put potential homes in jeopardy and would undermine Homes England's position and ability to deliver against its objectives and targets in our Strategic Plan;
- If information regarding value were in the public domain there could be expectations from the public and potential future partners about the value of funding applications and the value of potential works. This would mean that prices could be inflated and negotiating positions put at risk.





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This would not be in the public interest as it would be likely to result in poorer value for public money;

- The requested information relates to a current and ongoing agreement. If other potential or confirmed sources of funding became aware of the terms of the funding agreement and the obligations placed on the third party regarding this funding, it would be likely to prejudice the ability of the third party to negotiate for and secure other sources of funding. This would result in Homes England having to pay a higher grant than would have otherwise been the case, meaning greater cost to the public purse which would not be in the public interest;
- Disclosure is likely to be prejudicial to the commercial interests of both Home England and third parties as there is a reasonable expectation that such information provided to Homes England in this capacity would not be disclosed. This may deter future partners from sharing commercial information with Homes England which would harm our ability to negotiate effectively and achieve value for public money;
- The funding agreements contain confidentiality provisions in relation to the third party's obligations and release of the information would breach these undertakings. This would be likely to cause significant detriment to Homes England in our relationship with a partner. As the Government's housing accelerator Homes England has to support relationships with partners in order to achieve our strategic objectives and support home delivery with best value for public money. If partners felt that Homes England would reveal confidential commercial information in relation to projects where we are collaborating it would be likely that future partners would be unwilling to work with us or be wary of being open and transparent. This would cause significant risk in Homes England being able to invest public money and resources in the widest possible net of partners in order to achieve best value for money. It is imperative that Homes England is able to attract competitive partners and is respected in the market as a positive force; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

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.

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

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





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Section 41 – Information provided in confidence

Under section 41(1)(b) of the FOIA Homes England is not obliged to disclose information to the public if it would constitute a breach of confidence.

Given that the Funding Agreement is subject to confidentiality provisions, section 41 of the FOIA is engaged. Information contained within the agreements includes information for the Affordable Homes Programme that has been provided to Homes England in confidence and with the expectation that it will not be publicly disclosed. We rely on this exemption to withhold from disclosure the financial and technical information contained in the agreement only.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, we can confirm that we have considered the balance of the public interest, as a breach of confidence may not be actionable if there is an overriding public interest in disclosure. In this case, we feel that there is no overriding public interest in favour of disclosure.

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

<https://www.legislation.gov.uk/ukpga/2000/36/section/41>

Section 21 - Information accessible to applicant by other means

We are able to inform you that subject to the exemptions above, we do hold further information that falls within the scope of your request. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link and we have quoted section 21 below for ease.

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

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

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(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. Therefore, we can advise that examples of the AHP 2021 to 2026 and SOAHP 2016 to 2021 grant agreements are publicly available on our gov.uk website via the below links.

<https://www.gov.uk/government/publications/grant-agreement-examples-for-the-affordable-homes-programme-2021-to-2026>

<https://www.gov.uk/government/collections/shared-ownership-and-affordable-homes-programme-2016-to-2021-guidance>

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. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk





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Information Governance Team

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United Kingdom

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) 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,

The Information Governance Team

For Homes England

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