

Freedom of Information Act 2000
Environmental Information Regulations 2004
Decision notice

Date: 8 October 2014

Public Authority: Stockton-on-Tees Borough Council
Address: Municipal Buildings
Church Road
Stockton-on-Tees
TS18 1LD

Decision (including any steps ordered)

1. The complainants requested information relating to proposals by Stockton-on-Tees Borough Council (the Council) to build a children's home within the complainants' village. The Council received 27 requests in a 50 day period from the complainants. The requests were handled under both the Freedom of Information Act 2000 (the Act) and the Environmental Information Regulations (EIR). The Council complied with the first four requests but refused the remainder under the following:
 - Section 12 of the Act (where requests exceed appropriate cost limit)
 - Section 14 of the Act (vexatious or repeated requested requests)
 - Regulation 12(4)(b) of the EIR (manifestly unreasonable requests)
2. The Commissioner's decision is that Council has not demonstrated that section 12 applies to the requests. However, the Commissioner is satisfied that the requests can be refused as vexatious or manifestly unreasonable, and that the public interest test favours maintaining the exception. No further action is required.

Request and response

3. The Commissioner has included copies of the complainants' 27 requests in annex 1 at the end of his decision notice.
4. For the first four requests the Council provided the relevant information it held. However, on 27 November 2013 – in response to the remaining requests made from 28 October 2013 onwards – the Council issued a combined response which refused them under sections 12 and 14 of the Act and regulation 12(4)(b) of the EIR. In its refusal notice the Council made it clear that regulation 12(4)(b) was being used on the grounds that the request was unreasonable as it was vexatious, and not due to the cost of complying with the requests.
5. Following an internal review requested by the complainants, the Council responded on 30 January 2014. It upheld the decision to refuse the complainants' requests.

Scope of the case

6. The complainant contacted the Commissioner on 26 February 2014 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of the case to be whether the Council was correct to refuse the requests under sections 12 of the Act. If not, he will then go on to consider whether the Council was correct to rely upon section 14 and regulation 12(4)(b) on the grounds that they are vexatious.

Reasons for decision

Section 12 – cost of compliance for requests

8. Having reviewed the complainants' requests the Commissioner considers that only item 7 in annex 1 is a request for environmental information. As the Council made it clear that regulation 12(4)(b) was only being used on the grounds the requests were vexatious the arguments for the section 12 refusal will apply to all the requests bar item 7.
9. Section 12 of the Act states that a public authority may refuse a request if it considers that complying with the request would exceed the appropriate cost limit. This limit is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regs) as 18 hours of work for a local government organisation.

10. In order to demonstrate whether section 12 applied the Council needs to provide a clear estimate based on reasonable evidence that shows complying with the requests would exceed the appropriate limit. The Fees Regs explicitly state that this estimate can only take into account the following activities:
 - determining whether the information is held
 - locating the information, or a document which may contain the information
 - retrieving the information, or a document which may contain the information, and
 - extracting the information from a document containing it
11. The Fees Regs also say that public authorities are permitted to aggregate requests for similar information made by one or more persons that are received within a 60 working day period, where it appears that the applicants are making the requests in concert or in pursuance of a campaign. The Council aggregated the complainants' requests with others it had received concerning the proposed children's care home which came to a total of 31 requests.
12. In its refusal notice to the complainants the Council stated:

"The Council estimates that each separate piece of correspondence will take on average about 40 minutes to 1½ hours to process with each individual request within the correspondence taking at least 25 minutes but the majority significantly longer. On this basis we estimate that the cost to determine the appropriate material and locate, retrieve and extract the information in reference to the aggregated requests would be a minimum of £525.00 (based on at least 21 hours at £25 per hour)."
13. This calculation was reiterated in the Council's first submissions to the Commissioner. It stated that 21 hours was the best case scenario *"where all the requested information would be readily available in a retrievable format, with no internal management time included"*.
14. The Commissioner wrote to the Council and stated that he could not accept this estimate as it did not conform to the activities outlined in the Fees Regs. Whilst it was possible that 31 separate requests received could well exceed the appropriate cost limit the Commissioner could not accept an estimate for how long it would take to "process" a request, and the Council needed to describe what this meant in the terms of the Fees Regs.

15. The Council provided its second set of submissions to the Commissioner in response to this. In these submissions, the Council stressed that the potential establishment of the children's home was a hugely significant project that encompasses approximately 30 officers from a variety of departments at any one time. All of these officers would have to be asked to search for the requested information, and whilst much was held electronically it was also the case that a significant amount of information was held in hard copy.
16. The Council also stressed the complainants had asked for information across an "extensive range" of issues relating to the project such as: *"the acquisition of properties, the legal structure of the venture, consultation with police, the planning merits, highways issues, commercial due diligence, the procurement process, cost of care for looked after children, project governance, numbers of delivery vehicles and down to the size of the dustbins"*.
17. Whilst the Council was able to give an indication of the scale of the work involved in responding to the requests, it did not provide much in the way of an estimate that would demonstrate that the appropriate limit would be exceeded by complying with the requests. It stated that a typical request would involve the following:
 - Outlook e-mails (5 officers @ 3 minutes): 15 minutes
 - Database/system (e.g. procurement system): 15 minutes
 - Council/officer decision reports: 10 minutes

The Council did not explain what these activities entailed, nor how they related to the permitted activities outlined in the Fees Regs.

18. The Council did provide an example of a previous request from the complainants that it had complied with, and stated that using the permitted activities it took an hour to obtain the information for the three items within the request. However, there is no argument to extrapolate this information and apply it to the refused requests. The Commissioner notes that the Council identified 52 separate items within the 31 requests. If the Council can comply with three within an hour then it would suggest that 52 could be complied with in 17 hours and 20 minutes, which is within the appropriate limit.
19. The Commissioner wishes to stress again that due to the number of requests involved he still considers there might be a case that compliance with the 31 requests would exceed the appropriate limit. However, the fact remains that it is the Council's responsibility to demonstrate that the exemption has been applied correctly by providing a clear estimate based upon reasonable evidence. The Council should have been able to provide this to the complainants in the initial refusal notice, and if not then it should have been provided in its internal

review. In addition to this, the Council has been given two chances to provide submissions to the Commissioner with a coherent justification for the use of the exemption. In the absence of an estimate based on cogent evidence the Commissioner's decision is that the Council has not demonstrated that section 12 applies to the complainants' requests. He has now gone on to consider whether the requests can be refused under section 14 of the Act and regulation 12(4)(b) of the EIR on the grounds that they are vexatious.

Section 14 – vexatious requests

Regulation 12(4)(b) – manifestly unreasonable requests

20. For this section the Commissioner will consider whether the Council can refuse the 23 requests submitted by the complainants on the grounds that they are vexatious. The Council is entitled group the requests together providing that they are received within a 20 working day period. The first request that was refused as vexatious (item 5 of annex 1) was received on 28 October 2013, and the last was received on 25 November 2013. This is 20 working days from 28 October 2013 so the Council is within its rights to include all 23 requests within a single refusal notice. For further information on this point, please see the Commissioner's guidance on the subject.¹
21. As previously stated, the Commissioner's view is that only item 7 of the complainant's requests listed in annex 1 is a request for environmental information. For the purposes of this section of the decision, the Commissioner will combine the analysis for the requests made under the Act and the request made under the EIR, which is permissible because the Council cited regulation 12(4)(b) on the grounds that the requests were unreasonable because they were vexatious. When applied in this respect, the regulation works largely the same as section 14 of the Act, as confirmed in the Upper Tribunal case of *Craven v Information Commissioner and DECC* [2012] UKUT 442 (AAC) which stated that there is no material difference between them.²

1

http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx#page=29 see para 129

² <http://www.osscsc.gov.uk/judgmentfiles/j3682/GIA%200786%202012-00.doc> (see para 22 pg5)

22. Whilst the term vexatious is not defined in either the Act or the EIR, a working definition was used in the Upper Tribunal (information Rights) case of Information Commissioner v Devon CC and Dransfield [2012] UKUT 440 (AAC). This stated that in the context the term would be seen as a "...manifestly unjustified, inappropriate or improper use of a formal procedure."³ For this decision, the Commissioner will use this definition.
23. In the Council's submissions it stated that it considered the requests were vexatious based upon four criteria: the burden imposed by the requests, the motive of the requesters, the value or serious purpose of the requests, and harassment or distress to staff. The Commissioner will evaluate each of these points in turn.

Burden

24. Whilst the Council was unable to provide an estimate which demonstrated that compliance with the 31 aggregated requests would exceed 18 hours, this was largely due to the absence of an estimate based on reasonable evidence to show that the work involved in compliance with the request related to the four activities permitted in the Fees Regs. Also taking into account the four requests the Council had already complied with before deciding that subsequent requests were vexatious, the Commissioner notes that the complainants' 27 requests do amount to a significant quantity of work and considers that it is right to consider whether the resultant burden placed upon the Council indicates the requests are vexatious.
25. The Commissioner's view is that 27 requests can be seen as a burden, but another factor here is the length of time in which the requests were submitted. There were only 50 days between the first and the last requests being sent to the Council, which is a short space of time for a council to receive so many requests from the same individuals on the same subject matter. The sheer volume of requests within a short space of time would undeniably place a burden on the Council.
26. The Commissioner has also inspected the requests themselves, and notes that whilst some of the requests are relatively straightforward there are a number of requests which would be likely to require extensive searches and possible consideration of different exemptions. This would increase the amount of work involved in handling the

³ <http://www.osspsc.gov.uk/judgmentfiles/j3680/GIA%203037%202011-01.doc> (see para 27 pg7)

requests and support the argument that the requests would create a significant burden on the Council.

27. The Council is entitled to take measures to protect its limited resources from a substantial burden. The number of requests, along with the volume and nature of information requested, is enough that the Commissioner considers it would severely impact on the Council's ability to carry out its regular functions. This amounts to an inappropriate use of a formal procedure, and the Commissioner considers that this is a strong factor to support the view that the requests are vexatious.

Motive

28. The Council argued to the Commissioner that the complainants' motive for submitting the requests was vexatious. It stated that the complainants would have no reasonable expectation that the information to all of the requests could be provided within the statutory timescale of 20 working days. In summing up this point, the Council stated that the "bombardment" of requests was:

"clearly orchestrated and designed to cause maximum disruption to the Council's ability to carry out its functions, particularly in respect of the provision of information to the public"

29. The Commissioner disagrees with the Council's view on this. From reading the complainants' correspondence with the Council, and also that of other individuals who have sought to obtain information about this matter, it is not evident that the complainants had any motive other than obtaining the information so they could gain a greater understanding about proposed children's home. The Commissioner has not seen anything to suggest there is a malicious intent to disrupt the Council and so has not given this argument any weight when making his decision.

Value or serious purpose

30. Similar to the arguments regarding the complainants' motive, the Council maintains that the purpose of the requests was to disrupt the Council from its regular duties. It argued that the apparent value in obtaining information about a matter of significant local magnitude was outweighed by what it views as the bombardment tactics of the complainants.
31. The Commissioner disagrees with this view for similar reasons to that already mentioned. He has not seen any evidence to suggest the complainants were intending to disrupt the Council, even though he is of the opinion that this was the effect the requests had. This argument has not been afforded any weight towards the Commissioner's decision.

Harassment or distress to staff

32. The Council highlighted social media channels and public forums where its responses to the complainants and others had been commented on. The Council stated that in its views the criticism went beyond what could be reasonably expected and progressed into derogatory comments about its members of staff.
33. The Commissioner has inspected the evidence and does not consider that the expressed views could cause any substantial distress to a reasonable member of Council staff. There are instances of derogatory comments, but expressed more as dismay at the actions that the Council has taken rather than personal attacks on the members of staff. The Commissioner would not expect a reasonable person to feel harassed as a result of reading these comments and so has not given the argument any weight when making his decision.

Commissioner's decision

34. The Commissioner has carefully considered each of the factors put forward by the Council. In his view the majority show that the complainants are working to obtain information which is of value to them and also to other local residents that would be affected by the proposed children's home. Whilst the Commissioner is aware of the complainants' criticism of the Council, he does not see it as the sort of criticism that would genuinely offend a reasonable individual, which is what would be required to make it vexatious.
35. However, despite the publicly spirited motives of the complainants the Commissioner's decision is that the requests are vexatious. This is due to the number of requests that were submitted in such a short space of time. The Commissioner does not consider that the complainants intended to disrupt the Council with the volume of requests, but it is undeniable that this was the consequence of so many requests being sent. The Commissioner's view is that such a large number of requests in a comparatively short space of time is an inappropriate use of a formal procedure and sufficient on its own to make the requests vexatious.
36. One of the complainants' requests (request 7 in the Annex) has been considered under the EIR and the Commissioner has explained that he is satisfied that the request is vexatious. Therefore he has decided that the request engages regulation 12(4)(b) because it is manifestly unreasonable. The Commissioner will now go on to consider the public interest test. As with all exceptions in regulation 12 of the EIR, the manifestly unreasonable exception at 12(4)(b) carries with it a mandatory public interest test.

Public interest test

37. There is always an inherent argument for increased transparency and accountability, as well as the argument that environmental information should be made available where reasonable to improve the public's understanding of environmental matters. However, the Commissioner considers that there is a stronger argument in allowing public authorities to refuse requests that are manifestly unreasonable because they are vexatious. The exception was established within the EIR for a reason, and it would go against the purpose of this exception if a request that was clearly vexatious should be permitted due to the public interest arguments in disclosing the information.
38. The Commissioner notes that the Council complied with the complainants' first four requests (items 1 – 4 in annex 1). This shows it is willing to engage with the complainants and will disclose information where it is in accordance with the legislation. This adds significant weight to the argument that the exception should be maintained.
39. Therefore the Commissioner's decision is that the public interest favours maintaining the exception and withholding the information. No further action is required on behalf of the Council.

Right of appeal

40. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

41. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
42. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1 – complainants' requests

1. Received by the Council on 7 October 2013:

We formally write to request the full and transparent details of the following:-

- 1 All documentation relating to the 'due diligence' (including credit references and criminal records) undertaken by Stockton on Tees Borough Council on the company known as Spark of Genius Ltd and Spark of Genius (Training) Ltd*
- 2 The procedure, method and application of the selection process by Stockton on Tees Borough Council to engage Spark of Genius Ltd as your LLP partner.*
- 3 What personal checks have Stockton on Tees Borough Council undertaken on the owners and Directors of Spark of Genius.*

I would remind you that you must respond to requests for information promptly and usually within 20 working days. The first day of the 20 is the first working day after the request was received.

Failure to provide the information will result in me registering a formal complaint with the Information Commissioners Office at Wycliffe House, Water Lane, Wilmslow, Cheshire.

I trust you will expedite this request promptly.

2. Received by the Council on 15 October 2013

I refer to the above and following some considerable thought I request the following information.

- 1 How many Stockton on Tees Children are placed in the care of Spark of Genius in their Scottish Homes for the period 1st April 2012 - 30th September 2013*
- 2 At what cost to the public purse,(ie weekly fees, social worker cost Independent Reviewing Officer costs, travel, transport and subsistence costs) for the period April 2012 - 30th September 2013.*

I would remind you that you have 20 days in which to respond, failure to do so will result in a formal complaint to the Information Commissioner.

3. Received by the Council on 17 October 2013

Purchase of Fairview, Durham Road - Thorpe Thewles Purchased for use as a Children's Home

As this property has been purchased with taxpayers money.

Please provide the exact amount paid for this property, including all legal fees, stamp duty fees, estate agents fees and any other associated costs.

4. Received by the Council on 22 October 2013

Following the setting up of an LLP commercial business to trade with Spark of Genius in order to use tax payers money to buy high end houses to open as children's homes in rural locations across the borough.

Indications from a meeting residents had with Spark of Genius answer SBC on the evening of the 14th October that a management board has been set up consisting of 3 members of Spark of Genius and 3 members from SBC.

Please provide:-

- 1 the names of all 6 members of this board and thier job titles*
- 2 the terms of reference and operating structure of this board.*
- 3 whether consideration has been given to including an independent person as a member of the board?*

5. Received by the Council on 28 October 2013

Please provide a copy of the, Invitation to Tender (ITT) advert placed for the operation of King Edwin school, Norton and the development of 4 Residential Children's homes in the borough.

Also all the places where this advert was placed and copies of invoices for advertisement costs.

6. Received by the Council on 28 October 2013

As you are proposing to open 4 Children's Homes across the Borough in Rural Locations as part of a Limited Liability Partnership with a commercial profit making company using tax payers money, would you please provide the following:-

- 1 *Details of any correspondence you have had with Cleveland Police on the potential impact on police resources, including manpower and budgetary implications for the opening of 4 residential Children's Homes across the Borough, including Thorpe Thewles and Wolviston Village*

7. Received by the Council on 28 October 2013

As you are proposing to open 4 Children's Homes across the Borough in Rural Locations as part of a Limited Liability Partnership with a commercial profit making company using tax payers money, would you please provide the following:-

- 1 *Details of any environmental impact survey undertaken for the opening of 5 bed children's Homes in rural locations across the borough including Thorpe Thewles and Wolviston*

Please include the following:-

- 1 *Traffic movements for each 24/7 location*
- 2 *Parking issues, such as number of additional vehicles, on street parking, off street parking*
- 3 *Amount of additional waste collected from said properties with 5 children and potentially 17 staff on a 3 shift rota present at each home each week. Additional refuse to landfill and or disposal.*
- 4 *Size of waste collection bins, will these be ordinary domestic bins or large commercial bins. How many?*
- 5 *Numbers of potential delivery vehicles (arrivals and departures).*
- 6 *Noise impact for neighbouring properties under noise abatement regulations.*
- 7 *Any potential damage to conservation areas, i.e. trees, fences, hedgerows, damage to footpaths and roads.*

This will do for now, I expect I will have more to ask as we consider the full impact of these homes.

You have 20 working days to respond to this request.

8. Received by the Council on 28 October 2013

I refer with considerable interest the contents of the Cabinet Report of the 7th March 2013. In which you clearly state that you will be purchasing a number of houses within the borough, this we believe is with tax payers money.

There are several very interesting statements. We are particularly interested in the following: -

Point 6

'Spark of Genius will provide care and education services, manage and operate the school and be paid a management fee'

At a Parish Council meeting held on the 14th October 2013 at which there were 2 representatives from SBC and 1 from Spark of Genius. The question was asked how much were Spark of Genius being paid as a managements fee, and the answer was that they did not know! Neither parties could answer this question.

So, would you therefore provide the answer

How much money are Spark of Genius being paid as a management fee for operating 4 residential children's homes and the operation of King Edwin School?

I would remind you that you have 20 working days to respond and failure to do so will result in a formal compalint to the Information Commissioner.

9. Received by the Council on 28 October 2013

I refer with considerable interest the contents of the Cabinet Report of the 7th March 2013. In which you clearly state that you will be purchasing a number of houses within the borough, this we believe is with tax payers money.

There are several very interesting statements. We are particularly interested in the following: -

Point 7

'The business case has been prepared based on 20 children who could be located in such facilities, but are currently out of borough'

The representatives from SBC (2) and Spark of Genius (1) who attended the Parish Council meeting on the 14th October 2013 where asked if there was an intention to bring back these children and put them in these homes, and the answer was yes we are bringing the children home.

So that being the case and clearly this has been identified and referred to in your business case, and figures in Point 12 Next Steps can you explain the following:-

Please provide the full rationale, risk assessment, cost implications and potential emotional damage to the child of breaking a child's placement in order to save money?

Demos Report (In Loco Parentis Celia Hannon et al)) quotes the cost of a broken care journey per child per year is in excess of £32,755.37 (page 167 of the report)

I would remind you that you have 20 working days to respond and failure to do so will result in a formal complaint to the Information Commissioner.

10. Received by the Council on 30 October 2013

Further to your Cabinet report of the 7th March 2013 at Item 5 'a number of proposals were received and assessed for: -

- Financial Savings*
- Innovation*
- Improved Outcomes*

Could you please advise the names of the Organisations from whom you received proposals.

The weighting methodology was applied to the decision on who was awarded the work What weighting was applied to (a) cost (b) quality of care/outcome

As each organisation is entitled to evaluation feedback, then please provide the names of the organisations you gave feedback too and their contact details.

Usual you have 20 working days to respond.

11. Received by the Council on 1 November 2013

Please provide the full rationale for not placing the ITT for

Invitation to Tender for Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

in OJEU.

Also provide the full cost of this contract.

You have 20 working days to reply.

12. Received by the Council on 4 November 2013

As the council is using public money to buy 4 houses in excess of £600,000 plus the cost of fit out. Together with the refurbishment of an educational establishment.

Provide the full costs of the refurbishment of King Edwin. School in Norton

20 working days to respond

13. Received by the Council on 4 November 2013

Of the 4 bidders for the contract below

Invitation to Tender for the education. & 52week residential provision for children and young people with behaviour, social and emotional difficulties.

Which bidders got through to interview stage? And what was their weighting scores,

A. Finance. B outcomes c innovation

Please provide the weighting scores for all 4 bidders shortlisted

20 working days

14. Received by the Council on 4 November 2013

The Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

Please provide the exact date upon which you advised Spark of Genius that they had won and been awarded the above contract.

Was this notification undertaken by email, letter and/or telephone call.

Please provide copies of confirmation letter/email awarding this contract.

As usual 20 working days notice to respond please.

15. Received by the Council on 4 November 2013

Please provide the following information:

On what date did SBC begin the refurbishment of King Edwin School, Norton.

On what date did SBC rescind the demolition contract for King Edwin School, Norton

Who was awarded the contract to refurbish King Edwin School and on what date was the contract awarded and the contract number and where was the ITT advertised, please provide copy of ITT information

Who was awarded the contract to demolish King Edwin School and on what date was the contract awarded and where was the ITT advertised, please provide copy of ITT

Usual 20 working days to reply.

16. Received by the Council on 4 November 2013

The Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

Please provide the names of the officers and job titles of the panel who awarded this contract. Also the names of any elected members who were part of this panel.

20 working days to reply.

17. Received by the Council on 8 November 2013

I refer to the Cabinet Report of the 7th March 2013 and at Point 16 it says

"This project is considered low to medium risk. It is utilising existing buildings and investments are made following a detailed business case. Some risks are also shared with Spark of Genius given the nature of the partnership"

Would you therefore please provide:-

- 1 The detailed information relating the risk(s) to be shared with Spark of Genius and particularly in terms of financial risks and the cost value of those risks.*
- 2 The criteria upon which a judgement has been made to determine low to medium risk and what those risks are and who made that judgement.*

20 working days to reply.

18. Received by the Council on 8 November 2013

As it is a requirement to record in the register for Gifts and Hospitality any such gifts and hospitality accepted by any officer or elected member of the council, and failure to do so may be classed as a breach of codes of ethics/conduct on such matters. I would also remind you that acceptance of such gifts and hospitality could be misconstrued as a bribe or inducement, particularly where the issuing of a contract is or could be a consideration.

Please provide details of any officers of the council or elected members that have received any hospitality at either

*Celtic Football Club, Celtic Park, Glasgow.
Rangers Football Club, Ibrox Stadium 150 Edminston Drive, Galsgow*

at the invitation of Spark of Genius (Training) Limited during the period 1st January 2012 up to and including 30th November 2013

20 working days to reply.

19. Received by the Council on 11 November 2013

Contract for: The Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

Please provide the following information:-

- 1 The revised scorecard for the shortlisted bidders showing amended scores.*
- 2 The full rationale for the decision to revise the scorecard?*
- 3 Were all bidders notified of the changes to the scorecard? If not, why not?*

20 working days

20. Received by the Council on 11 November 2013

Contract for: The Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

Please confirm how many potential bidding organisations were asked to present information prior to the tender process. The names of those organisations who presented.

The names of the groups who were present at any presentations give by potential bidding organisations prior to the tender process and what working relationship do these groups have to the council.

Please provide the dates of such presentations.

20 days to respond please

21. Received by the Council on 15 November 2013

Following a range of other Freedom of Information requests and in light of the fact that the council has declared that it has entered into a Limited Liability Partnership (LLP) with a profit making company Spark of Genius and will develop a 50-50 share profit making company.

Please answer the following questions and provide the necessary evidence to substantiate your response.

Question

How will the council demonstrate fully its 'Duty of Care' to the children against their public announcement to generate profit and share that profit on a 50-50 basis. Please provide the evidence based model (system, process and methodology) that underpins such an approach.

20 working days to reply please

22. Received by the Council on 15 November 2013

In its cabinet report on the 7th March, the council states at Point 7:- 'The business case has been prepared based on 20 children who could be located in such facilities, but are currently out of the Borough. The

current cost of these children is approx £3.5millions including both social care and education provision'.

Question

What costs have been identified in relation to the health needs of such children,(eg, psychology, psychiatry, mental health/CAMHS, General GP services, etc).

Question

As the health needs of 20 children will be funded from the health budgets. Have those costs been discussed with the local Health Commissioner and have they been detailed to include all aspects of health care for 20 children.

Question

In view of the councils keenness to make profit and engage in Spark of Genius expansion plan, has the council also included in any discussions with health on the potential numbers of children in any expansion plan.

23. Received by the Council on 18 November 2013

As part of the contract:-

Invitation to Tender for Education and Residential(incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees.

Please provide a copy of the the questions submitted by potential bidders and the councils answers to those questions throughout the process.

20 working days.

24. Received by the Council on 19 November 2013

In relation to the contract for Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

In view of our significant concerns as residents living in Wolviston over the significant lack of consultation on the Joint Ventures (Stockton BC

and Spark of Genius North East Limited Liability Partnership LLP) proposal to establish 4 children's homes in rural communities across the borough, would you please provide answers to the following questions:-

Question

Would the Council explain how they propose to undertake consultation with residents, where there are similar proposals in other communities and indeed if there is a similar attempt to buy a further house in Wolviston.

Question

What weight will be given to residents comments and concerns before completion of contracts on the purchase of any property in the future?

Question

What consultation process with residents occurred in the purchase of Fairview in Thorpe Thewles.

Your usual 20 working days apply.

25. Received by the Council on 19 November 2013

This statement appears in the Northern Echo on Tuesday 19th November 2013 'Every elected councillor has also signed a pledge affirming their commitment to the authority's role as 'corporate parent' to vulnerable children'.

Please provide a copy of the pledge signed by every councillor and the date upon which it was signed.

20 working days to respond

26. Received by the Council on 20 November 2013

As part of this contract:-

Education and Residential (incorporating 52 week) Provision for Children and Young People with complex Behavioural, Emotional and Social Difficulties (BESD) in Stockton-on-Tees

And coupled with the fact that in the Gazette article of the 10th May 2013 where the council are to shed 300 jobs would the council answer the following questions.

Question

What arrangements are in place to 'ring fence' or redeployment opportunity to the 100 jobs allegedly created by the LLP Partnership with Spark of Genius for any of those 300 people affected by job losses?

Question

Of the jobs that have already been advertised by Spark of Genius how many of them have been filled by (a) existing SBC employees (b) people who live in the Borough of Stockton on Tees?

27. Received by the Council on 25 November 2013

In its cabinet report on the 7th March, the council states at Point 7:-

' The business case has been prepared based on 20 children who could be located in such facilities, but are currently out of the Borough. The current cost of these children is approx £3.5millions including both social care and education provision'.

The council has entered into a Limited Liability Partnership LLP)to realise profit and will share this on a 50-50 basis with the commercial company Spark of Genius.

Question

What costs have been identified in relation to the health needs of such children,(eg, psychology, psychiatry, mental health/CAMHs, General GP services, Speech & Language, Occupational Health, Substance Misuse, Sexualised Behaviours Dentistry etc). And has the council advised or sought to include Health partners in any profit sharing arrangements.

Question

As the health needs of 20 children will be funded from the health budgets. Has Stockton on Tees Borough Council discussed the potential costs with the local Health Commissioner and have they been detailed to include all aspects of health care for 20 children.

Question

In view of the councils keenness to make profit and engage in Spark of Genius' expansion plan, also identified in its Cabinet report of the 7th March 2013 at Point 9, has the council also included in any discussions with health on the potential numbers of children in any expansion plan over the next 5 years.