



**Development Department
Economic Initiatives**

Our reference: DOCS 238172

Dealt with by: Ruth Rea

Date: 16 June 2016

Telephone 028 9032 0202

Mr Sean Brady
Participation and the Practice of Rights
Ground Floor
Community House
Citylink Business Park
6A Albert Street
BELFAST
BT12 4HQ

Dear Mr Brady

Further to my email dated to you on 18 May 2016, Belfast City Council is now in a position to reply to your freedom of information request dated 20 April 2016.

I can confirm that the Council holds some of the information you have requested and has decided that the information it does hold can be disclosed. Accordingly, this information is provided below and in the attached documentation. For ease of reference I have reproduced your queries and provided the Council's reply directly below each query. Where the information requested is not held by the Council this is clearly indicated below.

1. Details, including copies of contract language used, of how the 'Real Jobs' clause (ring-fenced, fully paid jobs and apprenticeships for the long-term unemployed (12+months) is being incorporated into contracts tendered by council to procure goods, services and capital works.

In your email of 20 April 2016, you refer to a Council motion of 6 May 2014, addressing the economic hardship in our communities due to unemployment and welfare changes. I should advise that the Council does not hold information on the 'Real Jobs clause'. However, the Council operates a social clauses policy in contracts tendered, and supports this motion via appropriate social clauses that meet the necessary legal requirements for the duration of suitable contracts. Therefore, where information has been requested in relation to the 'Real Jobs' clause and the social clauses policy meets that requirement, information has been provided relating to the social clauses policy. To assist you, I have attached a copy of Belfast City Council's Policy on the use of Social Clauses in contracts, and examples of the social clauses used in contracts, at Appendix 1.

2. Total number of contracts to procure goods, services and capital works, and the total value of these contracts, issued by Belfast City Council since 6 January 2014.



In line with the Council's social clauses policy, as a minimum, contracts with a minimum labour value of £250,000 and contract duration of at least six months are to be screened for the inclusion of social clauses. From 6 January 2014 to date, there have been 220 contracts awarded with a total value of £219,908,291.82. Please note, as stated in the Council's standing orders, a contract is defined as spend over £30,000.

3. Total number of sanctions imposed on contractors for failure to adhere to 'Real Jobs' clauses since 6 January 2014.

As advised in our reply above numbered 1, the Council does not hold information on 'Real Jobs' clauses. However, in terms of the Council's Policy on the use of Social Clauses in contracts, the Council has not imposed any sanctions on contractors.

4. The total number of fully paid jobs and fully paid apprenticeships which were ring fenced for the long term unemployed (12+ months) in council contracts since 6th January 2014.

As advised above, the Council's social clauses policy, as a minimum, contracts with a minimum labour value of £250,000 and contract duration of at least six months are to be screened for the inclusion of social clauses. The opportunities for the long term unemployed are calculated in paid employment weeks. It is up to the contractor how they fill these weeks i.e. they could use one person or four people to fulfil their contractual obligation depending on the duration and value of the contract.

In terms of social clauses included in contracts, the number of paid employment weeks ring fenced for the long term unemployed is 2026. In addition to employment weeks for the long term unemployed the policy also allows for standard employment related social clauses across the following areas:

- **Apprentices**
This clause places a requirement on contractors and first tier subcontractors to employ a minimum of 5% of their workforce on formally recognised paid apprenticeships.
- **Student Work Placements**
This clause places a requirement on contractors to provide person weeks of paid placement opportunities for students on a University or College of Further and Higher Education course.
- **Trainees**
This clause places a requirement on contractors to provide person weeks of work placement for trainees from government approved training providers or equivalent.

The table below identifies the collective social clause targets in place across all Council contracts within which social clauses have been included.

Opportunities for the Unemployed	Apprentices employed by contractor/sub-contractor	Students employed	Trainees
Target Weeks	Target 5% of workforce (20 employees or more)	Target Weeks	Target weeks
2026	5%	840	545

5. Any evaluations/reports carried out or commissioned by Belfast City Council since 6th January 2014 which assessed the operation, impact or outcomes from the 'Real Jobs' clause.

As previously stated in our response to question 1, the Council does not hold information in relation to a 'Real Jobs' clause. However, in terms of the Council's social clauses which support the 'Real Jobs' motion, please find attached, at Appendix, 2 the following reports:

- Report to SP&R Committee 19 September 2014
- Report to SP&R Committee 26 September 2014
- Report to SP&R Committee 24 April 2015
- Report to City Growth and Regeneration Committee 13 May 2015
- Report to SP&R Committee 22 May 2015
- Report to SP&R Committee 22 January 2016

6. Copies of minutes of meetings/emails/reports between BCC and DCAL regarding social clauses policy and implementation.

I can confirm that the Council holds copies of minutes and emails between it and DCAL but does not hold any reports between it and DCAL regarding social clauses policy and implementation. The Council has decided that the minutes and emails can be disclosed into the public domain subject to the redaction of (a) information which, if it was disclosed into the public domain, would prejudice the commercial interests of both DCAL and the Council itself, (b) personal data of identifiable living individuals. In the documentation attached at Appendix 3, where information has been redacted because it is personal data, the abbreviation PD has been inserted and where information has been redacted for commercial interests reasons, the abbreviation CI has been inserted. Where other information has been redacted in the attached documents, it is information that is outside the scope of your request, and the abbreviation OS has been inserted in the relevant places in the documentation. I shall now explain the reasons underpinning the Council's decision to withhold this information.

As you may be aware, the release of information under the Freedom of Information Act 2000 equates to disclosure to the public at large, and not only to the individual applicant who made the request. Section 43(2) of the Freedom of Information Act states that 'Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).' The Council has decided that it cannot disclose, into the public domain, information contained in an email between DCAL and the Council, dated 8 February 2016, relating to the redevelopment of Olympia Leisure Centre as it would prejudice the commercial interests of DCAL, who are part-funders in this project, and the Council itself. The withheld information is commercially sensitive to DCAL, as it is live and still has currency. In respect of the Council's commercial interests, it is of critical importance for the Council to maintain its credibility with project partners. Disclosure of this type of information would not only damage the Council's relationship with the DCAL, but would damage its credibility with project partners generally.

Having assessed the likelihood and severity of the prejudice that the release of the withheld information would cause to the commercial interests of DCAL and the Council itself, it has concluded that its disclosure into the public domain constitutes

a real and significant risk. The Council has, therefore, decided that this information is exempt from disclosure under Section 43(2) of the Freedom of Information Act.

Where the Council decides that the information requested is exempt from disclosure under Section 43(2) of the Freedom of Information Act, it must then apply what is known as a public interest test. This requires the Council to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In applying the public interest test the Council gave careful consideration to the arguments for and against disclosure. The arguments which were taken into account in favour of disclosure were:

- that it would allow for more informed debate on the Council's working relationship with DCAL, who are a project partner in the redevelopment of Olympia Leisure Centre;
- that it would promote accountability and transparency in relation to the Council's decisions and its spending of public money on this subject;
- that it would assist the public to understand and challenge the Council's decisions on this subject;
- the amount of money involved;
- the specific circumstances of the case and the content of the information requested in relation to those circumstances;
- the age of the information;
- whether there were any exceptional circumstances or overriding public interest which would warrant disclosure; and
- whether any of the information was already in the public domain.

The arguments which were taken into account in favour of maintaining the exemption were:

- the specific circumstances of the case and the content of the information requested in relation to those circumstances;
- the age of the information;
- the significance and sensitivity of the information; and
- the likelihood and severity of prejudice that disclosure could cause to the commercial interests of DCAL and the Council itself.

The Council balanced the need for, and its commitment to, transparency, accountability and openness in relation to the Council's working relationship with DCAL, who are a project partner in the redevelopment of Olympia Leisure Centre, against the prejudice that disclosure would cause to the commercial interests of DCAL and the Council itself. Having taken into account the arguments for and against disclosure, the Council has decided that, on balance, in this case the public interest in maintaining the exemption provided under Section 43(2) of the Freedom of Information Act outweighs that in favour of disclosure. This decision was taken on the following grounds:

- the timing of the request;
- the age of the information;
- the information still has currency;
- the information is of critical commercial value to DCAL; and

- the overarching need for the Council to maintain its credibility with project partners.

I trust that you will understand the commercial sensitivities involved.

With regard to the redaction of the personal data contained in the disclosed documents, I should explain that, under Section 40(2) of the Freedom of Information Act, information is exempt from disclosure if it constitutes the personal data of an identifiable living individual and its disclosure would contravene any of the data protection principles set out in the Data Protection Act 1998. In this case, the redacted information falls into the following categories: (a) the names and contact details of DCAL staff and other stakeholders; (b) the names of long-term unemployed, placement students and apprentices who participated in the scheme and (c) names and contact details of contractors' employees. The Council has an obligation under the Data Protection Act to protect the personal data and privacy of these individuals, particularly as the disclosure of information under the Freedom of Information Act equates to its release into the public domain.

Having taken these factors into account, the Council has concluded that to disclose the names and contact details of the staff concerned would contravene the Data Protection Act, in particular the first data protection principle, and it is exempt from disclosure under Section 40(2) of the Freedom of Information Act. The decision to withhold this personal data was taken on the grounds that its disclosure would be unfair, unlawful and involve an unwarranted detriment to the privacy of the individuals concerned.

If you are dissatisfied with how the Council handled your request for information, you have the right to request that the Council formally review this decision. If you wish to do so, please write to the Records Manager, Belfast City Council, City Hall, Belfast, BT1 5GS.

Should you remain dissatisfied following the Council's internal review, you can seek an independent review from the Information Commissioner. Requests for an independent review should be made in writing to: The Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. However I would advise you that the Information Commissioner has indicated that a review will not be undertaken unless the Council has first had an opportunity to re-consider its decision.

Yours sincerely



Mr Donal Durkan
Director of Development

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