



EA/2015/0254-0256

Appellant: Gloucestershire County Council
First Respondent: The Information Commissioner
Second Respondent: Costas Ttofa
Third Respondent: UBB Waste (Gloucestershire) Ltd

Addendum Decision

We have considered the points raised by Eversheds on behalf of the Council and UBB in two emails sent on 13 March 2017. We are very grateful to them for drawing various anomalies to our attention.

Dealing with the points in the order raised:

1. It is right that we agreed the redaction of the “firing diagram” where it appears on p881 (and indeed p1029); however, it also appears at p652 as part of Schedule 29 (not 17). The reason for allowing the disclosure of the contents of Schedule 29 is that it is not a provision covered by Schedule 23 Part 1 and is therefore not covered by Reg 12(5)(e) at all. That reasoning stands and the “firing diagram” will have to be disclosed as part of Schedule 29. Whatever other arguments may apply, the fact is that the parties to the contract decided to put the diagram into Schedule 29 and did not consider that Schedule 29 needed to be kept confidential when they were drawing up the list in Schedule 23.
2. We note that we have allowed the redaction of information about third party waste sites and contingency delivery of waste at pp1096-1110 and pp1546-1557 in Schedule 3 but we have required disclosure of the whole of Schedule 4 which relates to payment mechanisms and includes at p1751 a table listing the sites and the third parties. On consideration we consider that, notwithstanding our overall conclusions on the public interest balance in relation to Schedule 4, the particular provision at p1751 can properly be redacted in light of our conclusions on similar information elsewhere in the contract; we will add p1751 to the list of permitted redactions.
3. Looking at this point, we note that we did not properly consider the redactions on pp882-886 (top of page) at all. We accept that these pages contain genuinely commercially sensitive material but we do not accept that they amount to anything like “trade secrets” as the Council maintain in the Checklist. The judgment is a close one but on balance we agree with the Commissioner that the public interest favours disclosure; as we read the provisions on these pages they would be very relevant to a public understanding of what it is the Council is buying on their behalf while the damage to UBB’s commercial interests as at April 2015 would not outweigh that public interest.

As to the specific point raised about the detail we have allowed to be redacted on p1065 and 1066, we refer to paragraph 154 of our decision. It may be that on further consideration we could have gone through the

contents of pp1065-1084 with a finer toothcomb and disallowed redaction of pp1065 and 1066, but in the interests of proportionality we will leave the general conclusions as they are even if there is a possible minor anomaly.

4. We are puzzled by this point since we had understood that the nominal capacity of the site was pretty well known and Judge Shanks's note is that the figure where it appears on p880 has already been disclosed. In the interests of proportionality we are not inclined to revisit or amend the decisions we have made on pp 880, 882 or 1021-1033.

This addendum decision will not be disclosed for the moment to anyone other than the Commissioner but will be incorporated in the main decision before it is publicised on the Tribunal website which, subject to any further direction, will be in the week of 24/4/17. In relation to points raised in this addendum ONLY we extend time for compliance and for seeking permission to appeal to 21/4/17.

HH Judge Shanks
27/3/17