

## East Lothian Council

**FOI Ref: 2018/497(502138)**

***Under the Freedom of Information (Scotland) Act 2002 we formally seek disclosure of the names of providers, who have been granted the uplift to £16.27 by East Lothian Council from the 1<sup>st</sup> of April 2018.***

East Lothian Council (ELC) did not award a standard uplift rate, but uplifted the Framework Providers' existing rate by a certain percentage provided they confirmed that they were paying the Scottish Living Wage.

The Framework Providers' rates vary depending on the rate they tendered at the time of the Procurement Process. Releasing the names of the providers and associated rates would be disadvantageous to the providers and advantageous to their competitors and is therefore commercially sensitive.

In view of this, although ELC does hold this information, we are unable to release it to you.

Under the terms of the Freedom of Information (Scotland) Act 2002, ELC considers this information exempt from release under Section 33(1)(b) Commercial interests and the economy. This section exempts information from disclosure if it would, or would be likely to, prejudice substantially the commercial interests of any person (including, without prejudice to that generality, a Scottish public authority).

When information is released as the result of a freedom of information request it is technically released to the general public, and not just to the person or organisation making the information request.

If this information was released into the public domain, the assumption must be made that details of the relevant service providers rates would ultimately be shared with their competitors. In doing so, ELC considers that the commercial interests of the service providers concerned would be damaged.

This exemption is subject to the public interest test and can only be used to withhold information if the public interest in maintaining the exemption outweighs the public interest in disclosure. We recognise that it is in the public interest for information to be accessible and that as a local authority we are open and accountable, especially in relation to financial matters. However, if a service provider believes its financial information could fall into the hands of its competitors, it may result in much less information and supporting evidence being provided in tenders. Should this be the case it would be very difficult for ELC to make sound procurement decisions.