

Our ref: 18993085
25 November 2020

Mr P Swift
???

Account reference:request-703303-d9eb9591@whatdotheyknow.com

Freedom of Information Act 2000

Dear Mr Swift

I can confirm that the information requested is held by Birmingham City Council. I have detailed below the information that is being released to you.

Request

I ask to be provided, with regard to damage to 'street furniture'

1. a copy of the contract with Kier Highways Ltd for damage to street furniture attendance and repairs
2. the schedule of costs for works on the highways i.e. staff, operatives, plant and materials charged to the Council and;
 - a. whether the Council is charged, for any works, by Kier Highways by using CECA rates
3. the schedule of costs for works on the highways i.e. staff, operatives, plant and materials charged to Third Parties
4. The basis upon which Kier Highways Ltd is to charge at-fault Third Parties for example:
 - a. cost-plus uplift
 - b. using the same base rates as charged to the Council in the event a culprit is unidentified
5. The protection the council put in place to prevent Third Parties being overcharged i.e.
the agreement that prevents the practice of Kier Highways profiting from claims - see: <http://www.EnglandHighways.co.uk/inflating-costs-to-make-a-profit/>
6. a copy of any insurance you possess for damage to such property
7. a copy of the authority in place permitting Kier Highways to commence proceedings in your name and
8. the process agreed with Kier highways and/or their lawyers, for approaching Third parties, many of whom will be your constituents, for reimbursement such that they are treated fairly, reasonably and not subject to unreasonable processes or costs.

Business and Customer Support

Inclusive Growth Directorate
PO BOX 28
1 Lancaster Circus
Birmingham
B1 1TU

Response

1. a copy of the contract with Kier Highways Ltd for damage to street furniture attendance and repairs

Schedule 15 (note: reference to Amey is due to the nature of an old contract but the obligations are inherited by Kier) regarding the claims process following damage as well as an extract from the services specification covering Routine and Reactive Maintenance.

2. the schedule of costs for works on the highways i.e. staff, operatives, plant and materials charged to the Council and;

a. whether the Council is charged, for any works, by Kier Highways by using CECA rates

Kier Highways applies for payment against actual costs incurred for staff, labour, plant, materials and subcontractors (or Third Parties) in delivering the works. For delivering the works, Kier Highways are paid a fixed Management Fee.

Kier Highways do not use CECA rates and the costs for staff and labour are predominantly those of the TUPE workforce.

3. the schedule of costs for works on the highways i.e. staff, operatives, plant and materials charged to Third Parties

Note response 2.

4. The basis upon which Kier Highways Ltd is to charge at-fault Third Parties for example:

a. cost-plus uplift

b. using the same base rates as charged to the Council in the event a culprit is unidentified

Any fault, errors, negligence etc. by Kier or a Kier Third Party/Subcontractor would be a disallowed cost under the Kier Contract and will not be paid to Kier. The Council or other parties would seek recovery from Kier or Kier's Third Party/Subcontractor for any loss or costs incurred.

Kier will pursue Third Parties (including insurers) for recovery of costs incurred from having to repair the network. Any costs recovered are returned to Birmingham Highways and not held by Kier. The process and costs are fully transparent to the Council and Birmingham Highways.

5. The protection the council put in place to prevent Third Parties being overcharged i.e.

the agreement that prevents the practice of Kier Highways profiting from claims - see: <http://www.EnglandHighways.co.uk/inflating-costs-to-make-a-profit/>

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There is full transparency with the Kier contract and the way Third Parties and subcontractors are being dealt with. There is not an opportunity for Kier to generate a profit from claims. Note response 4.

6. a copy of any insurance you possess for damage to such property

Birmingham Highways has the following insurances and policies in place:

- Construction All Risks
- Third Party Liability
- Environmental Impairment Liability

For each insurance there is a deductible at £50,000 for example (i.e. an excess). This would mean that anything up to the deductible value is a cost to Birmingham Highways.

7. a copy of the authority in place permitting Kier Highways to commence proceedings in your name and

Kier have authority and permission to act on behalf of the Highway Authority regarding proceedings under the Contract (Schedule 29 as attached).

8. the process agreed with Kier highways and/or their lawyers, for approaching Third parties, many of whom will be your constituents, for reimbursement such that they are treated fairly, reasonably and not subject to unreasonable processes or costs.

Kier Highways are a national provider to numerous local authorities, Highways England, the government as well as the private sector. Kier engage Gallagher Bassett who are an experienced company specialising in the handling of claims. Gallagher Bassett and Kier both act fairly and reasonable whilst ensuring that the true costs are recovered thereby ensuring value for Birmingham Highways. Birmingham Highways and Birmingham City Council require Kier and Gallagher Bassett to operate courteously and within standard industry practice in dealing with Third Parties.

Please quote the reference number 18993085 in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within 40 working days from the date this authority issued its initial response to your original letter and should be addressed to:

Corporate Information Governance Team
PO Box 16366
Birmingham
B2 2YY
Email: infogovernance@birmingham.gov.uk

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1 Lancaster Circus
Birmingham
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If you are still dissatisfied with the Council's response after the internal review you have a right of appeal to the Information Commissioner at:

The Information Commissioner's Office

Website: www.ico.org.uk

I will now close your request as of this date.

Yours sincerely

Jenny Bent
Business Support Coordinator

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