

A re-write exercise: simplifying an explanation of a legal quarrel.

Tone of voice: playful, almost flippant.

Taking the biscuit

Here's the issue

Recently, DHP organised a procurement (the fancy legal word for gaining a product or service. In this case we needed cake). One of the companies who applied, Queen of Hearts, handed in a tender (another fancy word: it's like a proposal or bid) that wasn't finished. So we didn't give them the job. Now they're saying this was unfair, which throws up the question of whether or not we did the right thing. Spoiler: we think we did.

The ground rules

We asked the companies interested in our contract to offer us at least four sample menus. The dos and don'ts of what we were looking for had been laid out in something called an Invitation to Tender (ITT). This included a pretty clear warning of when the deadline was, as well as explaining how businesses only had one shot to upload their whole application on the electronic system. It also mentioned that although the deadline was final, we planned to give candidates a chance later on to patch up any small mistakes they might have made.

Here's what happened

When it came to the crunch, another competing business asked us if they could push the deadline back because they'd had a (very badly timed) power cut. This was just unlucky, and no real fault of theirs, so we decided to give everyone (in the name of fairness) another three hours to get their documents in.

So what does a power cut have to do with it?

Queen of Hearts have tried to argue that handing out extra time for this other company showed favouritism, because we didn't respond like that to their request. But the situations couldn't be compared for four main reasons.

Queen of Hearts had handed in an unfinished tender

There was no jam tart sample menu. Unfortunately, this is considered their own fault.

Others were just unlucky

The company with the power cut were simply unable to upload their documents which, quite obviously, wasn't their fault.

Queen of Hearts were asking for special treatment

Whereas the guys with the power cut just needed extra time. This would apply to everyone to keep things fair.

They had their chance

Any of the companies applying could have made the most of that extended deadline to check over their documents. So Queen of Hearts did have a second shot, and it seems like they still messed up.

The EU Treaty (a hefty paper which sets the ground rules for this sort of trading) decided that above all else, tenders should always be treated fairly and equally. By making an exception to the rules for Queen of Hearts, we would have been playing a risky game. It could have looked like bias, and that's exactly what we shouldn't be showing.

It was more than a little hiccup

As we mentioned earlier, those all-important dos and don'ts said that we would give businesses the chance to make changes after the deadline had passed. Now to be more specific: the applications, handed in on time, could be later updated if there was "material and genuine error". Small oversights, typos, that sort of thing.

So should we have let Queen of Hearts fix their mistake?

Technically, we **could** have allowed Queen of Hearts to add that missing menu, but we didn't **have** to. It's up to us to use our common sense under these sorts of circumstances. The general feeling is that Queen of Hearts hadn't simply submitted an error, they'd submitted something that was outright incomplete. Those dos and don'ts didn't say anything about unfinished applications, just like they didn't mention the possibility of adding entire sections after the deadline. And those rules were meant to be final: if we'd let Queen of Hearts have their way, we'd be bending them.

It's true that there can be exceptions to the rules. Just like in the case of that badly-timed power failure, things can sometimes happen beyond our control. Exceptions might also be made when the people in charge (us) are at fault. But in general, even if there is some reason to accept late-comers there is no **requirement** to accept them. Especially if they're the ones who mucked up.

Rules weren't made to be broken

There's a reason why do's, don'ts and deadlines are there: they help keep a level playing field. Any time someone decides to relax the rules, that all-important fairness between tenderers gets thrown into questioning. Like now.

We have every right to accept late bids, just as long as, by accepting them, they're not putting anyone at an unfair advantage. And unfortunately, accepting Queen of Hearts' would have done just that.