

I write further to your request for an internal review of the attached response to your request for information.

### **Your request for review**

*You cannot engage the 'future publication' exemption for drawdowns 10-13 if they have already been published.*

*As I have previously reminded you, it has been claimed in correspondence with me that the invoices were independently verified. We are entitled therefore to see proof that substantiates this claim. It is irrelevant whether or not Saracens has a contract with contractors: the public interest is in knowing that the drawdown payments were used as agreed on building the stand, and we have a right to transparency over this matter, so that we know that best value is being made of public money in such investments. The invoices are crucial in establishing the exact purpose of the payments. I cannot see why any problem should occur in demonstrating that the drawdown money was used as agreed.*

I have undertaken the internal review and the outcome of my review is set out below.

### **Response**

I have contacted the service and they inform me that, in terms of the published drawdown information, they are adding to this regularly, and this includes additional information for already published drawdowns as well as those not yet published. I therefore uphold the elements of the original response citing regulation

Your request for review also disputes the decision to withhold the requested invoices, I have reviewed these in consultation with the relevant service and can confirm that I am upholding the decision to withhold the information. However, in reviewing the original response, I have concluded that an exception under regulation 12(5)(f) of the EIR applies. I therefore provide a fresh refusal notice below.

### **R12(5)(f) Interests of the person who supplied information – Refusal Notice**

The information being withheld relates to sensitive commercial information that has been submitted to the Council on a confidential and voluntary basis. The party who submitted that information to the Council has not consented to its disclosure. The Council considers that disclosure of the withheld information would, or would be likely to, adversely affect legitimate economic interests of third parties. As such, the Council considers that the exception r12(5)(f) applies to the withheld information.

The contractors do not work for the council and have no contract with the council, and as such these invoices relate to their relationship with Saracens. The council does not manage them or supervise their works, and information would have been supplied to Saracens by these contractors with the expectation of confidence. In addition, as stated in the council's original response, the invoices were supplied to the council with the expectation of confidence and consultation with Saracens has confirmed this expectation. I therefore find that the exception under r12(5)(f) applies.

I have considered whether the public interest in maintaining the exception outweighs the public interest in disclosing the information.

### **Factors in favour of disclosure**

- There is a clear public interest in the work of local government being closely examined to encourage the discharging of public functions in the most efficient and effective way
- There is an important public interest in the work of public bodies being transparent and open to scrutiny to increase diligence and to protect the public purse
- There is a public interest in public authorities being accountable for their financial decision making.
- The Council is mindful of its responsibilities to be open with information on this issue, as evidenced by the publication of drawdown information on the Open Barnet portal.

### **Factors in favour of withholding**

- It is highly likely that disclosing the unit costs of Saracens contractors would prejudice the ability of Saracens to negotiate the best deal for itself and damage the ability of the contractors to compete in a highly competitive environment
- Releasing sensitive commercial information could prejudice the Council's future negotiation capabilities and reduce the confidence of third parties in the Council's ability to facilitate the decision-making process. Both the Council and the third party could be reluctant to have free and frank discussions if all that is discussed is subject to scrutiny with no safe space for 'confidential communications', the requested information may prejudice pending or future discussions which would be detrimental to the Council or the third party.
- Disclosure would erode trust in the Council's ability to protect the confidentiality of information and would likely make both contractors and the public at large reluctant to provide such information in future.

The public interest in withholding the requested information outweighs the public interest in disclosure of the requested information and this information cannot be supplied to you

### **Your rights**

If you remain dissatisfied with the handling of your request, you have a right to appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Telephone: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)

There is no charge for making an appeal.