



Assurance Group
London Borough of Barnet,
2 Bristol Avenue, Colindale,
London NW9 4EW
16 March 2020
Our ref: 5978864

Thank you for your request received on 20 January 2020, for the following information:

In respect of please provide me with:

- a copy of all due diligence undertaken in respect of the loan
- details of security offered for the loan
- assessments of the suitability of that security -details of the repayment terms for the loan
- what processes and checks have been put in place to ensure the loan is lent for the purposes for which it was given
- a copy of the legal agreement between the council and Saracens
- copies of exempt reports from the 2018 committee meetings where this matter was discussed.

We have processed this request under the Environmental Information Regulations 2004.

Response

I can confirm that London Borough of Barnet holds the information you requested.

However, we believe that the exceptions detailed below apply to all the information you requested and so we are withholding that information. Please see the Refusal Notice below.

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- details of security offered for the loan
- assessments of the suitability of that security -details of the repayment terms for the loan
- what processes and checks have been put in place to ensure the loan is lent for the purposes for which it was given

We consider that Regulation 6(1)(b) applies to the information requested because the information requested is already publicly available and easily accessible.

Please see the response already published on 11.12.2018 in our FOI Disclosure log (type in Saracens Loan Agreement 5142329)

<https://barnetportal.icasework.com/cases?&public=true&byCaseType=false&byKeyword=true&max=20&title=Barnet%20Disclosure>

The information you requested is available on our website using the following links:

<https://barnet.moderngov.co.uk/documents/s57530/Saracens%20Loan%20update.pdf>

<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=7108>

<https://barnet.moderngov.co.uk/documents/s47458/Copthall%20Report%20Public.pdf>

<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=693&MId=10105&Ver=4>

- a copy of the legal agreement between the council and Saracens

We consider that regulation 12 (4) (c) applies to the information requested because we consider that the request is too general. Further to my email to you of 9th March we are not clear as to which agreements you are seeking.

In applying this exemption, we have had to balance the public interest in withholding the information against the interest in favour of disclosure.

Factors in favour of disclosure

- Providing as full a response as possible.
- Furthering the understanding, and participation in the public debate of issue
- Facilitate the accountability and transparency of public authorities for decisions taken

Factors in favour of withholding

- We are unsure of the meaning of this question in the request and cannot supply a meaningful answer without clarification. there are a number of agreement with Saracens
- Clarification has been requested on 9th March 2020

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The different agreements identified include deeds, a community use deed, a lease for Copthall, a collateral warranty, a loan facility agreement. Some documents have been filed at Companies house:

<https://beta.companieshouse.gov.uk/company/OC360885/filing-history>

- copies of exempt reports from the 2018 committee meetings where this matter was discussed.

Please see redacted May 2018 Exempt Report already released in the Disclosure Log (see answer above).

We are withholding the Oct 2018 Exempt Report. Therefore, we have decided to withhold the information. I have reconsidered the exemptions with the passage of time to see if they could now be released even in a redacted form. The paper contains legal advice and commercially sensitive data.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

We consider that regulation 12 (5) (b) (The course of justice) applies to the information requested because we consider that disclosure of the information requested would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.

Factors in favour of disclosure

- A general public interest in making authorities as accountable as possible
- Passage of time- the legal advice is 18 months old

Factors in favour of withholding

- There is very heavy public interest inherent in Legal Professional Privilege
- There is a strong element of public interest inbuilt into privilege itself.
- It is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion, save in the most clear case.
- The relevant information has been released in the public domain when a decision on the loan was made (see links above)

We consider that regulation 12 (5) (e) (Confidentiality of commercial or industrial information) applies to the information requested because we consider that disclosure of the information requested would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Therefore, we have decided to withhold the information.

In applying this exemption, we have had to balance the public interest in withholding the information against the interest in favour of disclosure.

Saracens when seeking a loan provided commercially sensitive information to the council. The likelihood of damage to the commercial interests of Saracens and the Council would be highly likely.

Factors in favour of disclosure

- Furthering the understanding, and participation in the public debate of issues
- Facilitate the accountability and transparency of public authorities for decisions taken
- Facilitate accountability and transparency in the spending of public money
- Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assist individuals in challenging those decisions

Factors in favour of maintaining the exemption

- Damage to business reputation or the confidence in customers or suppliers or investors may have in it,
- Detrimental impact on Saracen's commercial revenue or threaten to secure finance and weaken position in a competitive environment
- Council position in a competitive environment, market sensitivity of information and potential usefulness to competitors
- Negative effect on competitiveness if competitors were to have access to information

- Appropriation information has been put into the public domain at every stage of the loan agreement and this is kept under review

Further information

If you are interested in the data that the council holds you may wish to visit Open Barnet, the council's data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access.

<http://open.barnet.gov.uk/>

Advice and Assistance : Direct Marketing

If you are a company that intends to use the names and contact details of council officers (or other officers) provided in this response for direct marketing, you need to be registered with the Information Commissioner to process personal data for this purpose. You must also check that the individual (whom you wish to contact for direct marketing purposes) is not registered with one of the Preference Services to prevent Direct Marketing. If they are you must adhere to this preference.

You must also ensure you comply with the Privacy Electronic and Communications Regulations (PECR). For more information follow this Link www.ico.org.uk

For the avoidance of doubt the provision of council (and other) officer names and contact details under FOI does not give consent to receive direct marketing via any media and expressly does not constitute a 'soft opt-in' under PECR.

Your rights

If you are unhappy with the way your request for information has been handled, you can request a review within the next 40 working days by writing to the Information Management Team at: foi@barnet.gov.uk. Or by post to Information Management Team (FOI) London Borough of Barnet, 2 Bristol Avenue, Colindale, NW9 4EW

If, having exhausted our review procedure, you remain dissatisfied with the handling of your request or complaint, you will 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). There is no charge for making an appeal.