

Roger Wilson  
Chief Executive



**Armagh City  
Banbridge  
& Craigavon**  
Borough Council

By Email to:  
Save Craigavon City Park and Lakes  
[request-444145-a67353e4@whatdotheyknow.com]

Date: 29 December 2017

Our Ref: FOI **IR-2017-483**

Dear Ms Lavery

Thank you for your request for information which was received by email on 7 November 2017 and has been processed under the terms of the Freedom of Information Act 2000. I would like to take this opportunity to apologise for the delay in issuing your response. At present Council is dealing with a significant volume of requests and this has impacted on processing and response timescales.

Your request for information has now been considered and Council's response is enclosed.

If you are unhappy with the response you have received in relation to your request you may ask for an internal review. A request for internal review should be submitted within two months of the date of this letter.

If you are not satisfied with the outcome of the internal review, you have the right to apply directly to the Information Commissioner at, The Information Commissioner's Office – Northern Ireland, 3rd Floor, 14 Cromac Place, Belfast BT7 2JB or by Email: [ni@ico.org.uk](mailto:ni@ico.org.uk) who will undertake an independent review.

Yours sincerely

Joan Farley  
Senior Records Manager

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### **Freedom of Information Response IR-2017-483**

1. Please can you send us a copy of the Minutes of the Full Council Meeting March 2015. Please include any reports / appendices which support these minutes. They have been removed from your website.

**Response:** Please find enclosed as requested a copy of the minutes that can be made available to the public. Confidential items are not made available to the public as the Council has deemed these unsuitable for disclosure in line with the appropriate exemption(s) under the Local Government Act 2014 and/or the Freedom of information Act 2000.

2. Please can you advise on what date that Full Council confirmed its agreement to sell land at South Lake to Southern Regional College and attach minutes which confirm this agreement.

**Response:** A recommendation was presented to and subsequently approved by Full Council on 27 March 2017. This matter was presented to Full Council as a confidential item. Council considers this information to be exempt from release into the public domain by application of the following exemption, Section 43 (2) 'Commercial Interests'. This exemption requires a public interest test, please refer to Appendix 1 Exemption Schedule for further details.

3. Please can you advise on which date Council instructed its solicitors to draw up an options agreement relating to the sale of land in Craigavon City Park to Southern Regional College.

**Response:** Council instructed its solicitors to draw up an options agreement relating to the sale of land at South Lake to Southern Regional College on 19 August 2016.

4. Please can you also attach the letter / email of instruction sent to Council's Solicitors requesting them to draw up an option to agreement for the sale of land at Craigavon City Park / South Lake Site to Southern Regional College.

**Response:** Council considers this information to be exempt from release in to the public domain by application of the following exemption, Section 42 (1) 'Legal Professional Privilege' (LPP). This exemption requires a public interest test, please refer to Appendix 2 Exemption Schedule for further details.



## **Appendix 1**

### **Exemption Schedule - IR-2017-483**

**Re:** C194/2017 Confidential item.

The exemption 'Commercial Interests' as detailed in Section 43 (2) of the freedom of Information Act is known as a qualified exemption which means it is subject to the public Interest Test as detailed in Section 2 of the Act. The purpose of this test is to establish whether the public interest in withholding the information outweighs the public interest in disclosing it.

#### **WHAT DOES THE ACT SAY?**

Section 43 – 'Commercial Interests'.

- (1) Information is exempt information if it constitutes a trade secret.
- (2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

#### **Public interest factors in favour of disclosure**

- We recognise that there may be some public interest in disclosure on the grounds of openness and transparency;
- Release of the information would promote accountability and transparency. The purpose of the Act is to make public authorities more accountable and this factor, therefore, may be applied to a wide range of scenarios from how an individual or an Authority fulfils their role or function.

#### **Public interest factors in favour of maintaining the exemption**

- Disclosure of the requested information could seriously jeopardise the Councils commercial interest and significantly damage their ongoing business negotiation;
- The Council is of the opinion that the release of this information in to the public domain would have a negative impact and frustrate process of land disposal.

It is my determination, that the considerations in favour of release are outweighed by considerations in favour of maintaining the exemption. I am therefore refusing to release "C194/2017 Confidential item" under Section 43 (2) of The Freedom of Information Act 2000.



## **Appendix 2**

### **Exemption Schedule - IR-2017-483**

**Re:** “letter / email of instruction sent to Council's Solicitors requesting them to draw up an option to agreement for the sale of land at Craigavon City Park / South Lake Site to Southern Regional College”

The exemption ‘Legal Professional Privilege’ as detailed in Section 42 (1) of the freedom of Information Act is known as a qualified exemption which means it is subject to the public Interest Test as detailed in Section 2 of the Act. The purpose of this test is to establish whether the public interest in withholding the information outweighs the public interest in disclosing it.

### **WHAT DOES THE ACT SAY?**

#### **Section 42 – Legal Professional Privilege**

- (1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.
- (2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) in respect of which such a claim could be maintained in legal proceedings.

#### **Public interest factors in favour of disclosure**

- We recognise that there may be some public interest in disclosure on the grounds of openness and transparency;
- Release of the information would promote accountability and transparency. The purpose of the Act is to make public authorities more accountable and this factor, therefore, may be applied to a wide range of scenarios from how an individual or an Authority fulfils their role or function.

#### **Public interest factors in favour of maintaining the exemption**

- Disclosure of the requested information could seriously jeopardise the Councils commercial interest and significantly damage their ongoing business process;
- The Council is of the opinion that the release of this information in to the public domain would have a negative impact and frustrate process of land disposal.

It is my determination, that the considerations in favour of release are outweighed by considerations in favour of maintaining the exemption. I am therefore refusing to release “letter / email of instruction sent to Council's Solicitors requesting them to draw up an option to agreement for the sale of land at Craigavon City Park / South Lake Site to Southern Regional College” under Section 42 (1) of The Freedom of Information Act 2000.