Complaint Resolution Team

Business Support

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| Mr S Downes | Contact: Christine Tanriverdiinformation@croydon.gov.ukOur Ref: F/CRT/10001426Date:19 November 2013 |

**SENT BY EMAIL**

Dear Mr Downes

**Freedom of Information Request**

Your request has been considered under the provisions of the Freedom of Information Act. For ease of reference, I will address each of your questions in turn.

**Please provide to me, in word document format, the full, unredacted report compiled by Atlantic Customer Solutions on the Fairfield Halls and London Mozart Players, as commissioned by Croydon Council.**

On reviewing the requested information it became apparent that that it may be considered to be exempt under Sections 41 and 43 for FoIA; Section 41 Information provided in confidence and Section 43 Commercial interests. Section 43 also requires issues of public interest to be considered as part of the process of deciding if the requested information can be claimed as exempt.

In view of this you were written to on the 15 October 2013 and informed that the Council needed to consider issues of public interest in deciding whether the requested information should be provided to you and that the deadline for providing you with a substantive response was therefore extended by 20 days.

The information within the Atlantic Customer Solutions Report (ACSR) was provided to the Council on the basis of significant level of implied confidentiality. While the Council did not have an explicit confidentiality agreement with Fairfield Halls or London Mozart Players, the information provided by them to produce the ACSR was received on an implicit basis of confidentiality. This level of confidentiality was referred to in the brief which stated that the report and recommendations would be reported to the Board of the London Mozart Players and if there were implications for the Fairfield Halls to their Board at the same time. The resulting reports were then provided to both organisations in confidence.

The ACSR contains information which could be considered commercially sensitive; this information relates to the current and future commercial activities of Fairfield Halls and London Mozart Players. In view of this the Council contacted both Fairfield Halls and the London Mozart Players for their views as to whether or not they were willing for the requested information to be released.

In response both Fairfield Halls and the London Mozart Players have expressed strong views that the requested information is commercially sensitive; and that to provide to you in response to your request for information would be prejudicial to both organisations current and future commercial activities. Further both Fairfield Halls and the London Mozart Players commented that they undertook to participate in the exercise undertaken by Atlantic Customer Solutions, on the strict understanding that the information they shared with the Council was on the basis of confidentiality, and it was on that basis they provided the information contained within the ACSR.

The Council considers that its own position would be likely to prejudiced, should this information be released to you, and further that the commercial positions of Fairfield Halls and London Mozart Players would suffer prejudice given that they have provided commercial information to the Council in the expectation of a level of confidence. This is because the requested information contains detailed information regarding the current and proposed commercial activities of Fairfield Halls and London Mozart Players. Therefore, it is considered that to release this information would be likely to prejudice the commercial interests of both Fairfield Halls and London Mozart Players.

In considering if information is exempt under Section 43 for FoIA requires issues of public interest to be considered as part of the process of deciding if the requested information can be disclosed. Section 43 (2) states, that 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).

However, while it is acknowledged that there is a public interest in how Council works with cultural groups and organisations, providing the requested information is not considered to be in the public interest. This is because that the Council must be able to obtain and exchange information within agreed levels of confidence so as to enable the formulation and implementation of commercial activities and/or commercial policy when working with cultural groups and organisations, to further their mutual aims. Further given the views expressed by both Fairfield Halls and London Mozart Players, both organisations consider that they would suffer prejudice in light of the information they have shared with the Council, should that be released into the public domain. Therefore, providing you with the requested information would likely prejudice the Council’s ability to work with organisations such as Fairfield Halls and London Mozart Players in the future, as they would be unwilling to enter into open dialogue with the Council, prejudicing the Council’s ability to act.

In arriving at this position the Council has carefully weighed the issues of whether disclosure is appropriate, and if doing so would assist in furthering issues such as accountability, transparency and furthering public debate, against whether releasing this information into the public domain would be likely to prejudice the Council’s ability to work with cultural groups and organisations; and the commercial positions of Fairfield Halls and London Mozart Players. In respect of the Fairfield Halls and London Mozart Players, as stated previously, they both provided information in confidence, detailing information regarding current and proposed commercial activities.

Lastly after considering the issues set out above, the Council also considers that the requested information does have the level of ‘confidence’ for it to be considered to be exempt information. Given this and the nature of the information the Council believes that the requested information is exempt from disclosure under Section 41 as it was “(a) it was obtained by the public authority from any other person” and “(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.”

In summary after careful consideration we have concluded the report in question is covered by Sections 41 and 43 of the Freedom of Information Act in that its contents were both provided in confidence and relate to commercially sensitive matters.

This level of confidentiality was explicitly contained in the brief for the original report and we have taken time to assess whether any overriding issues of public interest might now supersede this statement of intent.

It is our conclusion that the public interest would not be served by divulging commercially sensitive information which could be prejudicial to the organisations involved.

If you are dissatisfied with the way the council has handled your request under the Freedom of Information Act you may ask for an internal review. This should be submitted to us within 40 working days of this response. You can do this by outlining the details of your complaint by:

Email: information@croydon.gov.uk

Writing: Complaint Resolution Team

LondonBorough of Croydon

Bernard Weatherill House

7thFloor - Zone C

 8 Mint Walk

Croydon CR0 1EA

Any requests received after the 40 working day time limit will be considered only at the discretion of the council.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner’s Office

Wycliffe House

Water Lane

Wilmslow

CheshireSK9 5AF

Yours sincerely

Christine Tanriverdi

FOI Coordinator

Croydon Council