

Roger Wilson
Chief Executive



Our Ref: **IR-2019-69**

05 March 2019

By Email to:

request-548563-bd8b99c9@whatdotheyknow.com

Dear Ms Corr

Re: Freedom of Information Request

Thank you for your request for information which was received on 28 January 2019 and has been processed under the terms of the Freedom of Information Act 2000.

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 who will undertake an independent review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Wylie Dickson', is written over a light blue horizontal line.

Wylie Dickson | Senior Admin Officer, Planning

Armagh City, Banbridge and Craigavon Borough Council

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**Armagh City
Banbridge
& Craigavon**
Borough Council

Your Request:

"I have a few questions on planning legal bills. Can you please tell me?"

- 1. What was the council's budget for seeking external legal advice / opinions / representation per year since the implementation of Local Government Reform on 1 April 2015?***
- 2. What was the actual amount spent on legal advice / opinions / representation in each of those years?***
- 3. How much of that expenditure per year was related to planning and environmental issues?"***

Council Response:

- 1. What was the council's budget for seeking external legal advice / opinions / representation per year since the implementation of Local Government Reform on 1 April 2015?***
- 2. What was the actual amount spent on legal advice / opinions / representation in each of those years?***
- 3. How much of that expenditure per year was related to planning and environmental issues?"***

The information you have requested is exempt from release into the public domain by application of the following exemption, Section 43 (2) 'Commercial Interests'. Section 43 (2) requires a public interest test; please refer to Appendix 1: Exemption Schedule for further details.

Appendix 1

Exemption Schedule Freedom of Information Request IR-2019-69

- 1. What was the council's budget for seeking external legal advice / opinions / representation per year since the implementation of Local Government Reform on 1 April 2015?***
- 2. What was the actual amount spent on legal advice / opinions / representation in each of those years?***
- 3. How much of that expenditure per year was related to planning and environmental issues?"***

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

- 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;
- We recognise that the public interest is particularly strong in relation to the procurement of private companies' and their participation in public sector tenders. Such companies tender for public contracts in the knowledge that FOIA applies to public authorities.

Public interest factors in favour of maintaining the exemption

- Armagh City, Banbridge and Craigavon Borough Council is a major purchaser of goods and services in Northern Ireland. Council is dependent on the procurement of these goods and services to ensure it continues to fulfil its key functions. Council is of the opinion that the release of this information in to the public domain would affect the commercial interests of Council and could significantly damage any future negotiations and its ability to procure such services in the future.

- Contractors are subject to a competitive tender process and as the tender is due for review in the new financial year, the release of this information would undermine the competitive process.
- The release this information would have the potential to reduce the Council's ability to attract competitive rates from prospective contractors thereby prejudicing the Council's commercial interests.
- If a prospective tenderer were able to review this information, it would inhibit competitive tendering and would not be in the Council's interest.

It is our determination, in this specific instance, that the considerations in favour of release are outweighed by considerations in favour of maintaining the exemption and are therefore refusing release of the information under Section 43 (2) of The Freedom of Information Act 2000.