

READING BOROUGH COUNCIL

AUDIT & GOVERNANCE COMMITTEE

1 AUGUST 2018

QUESTION NO. 1

Peter Burt to ask the Chairman of the Audit & Governance Committee:

Freedom of Information Act - Commercial Interests

Guidance from the Information Commissioner states that "It is good practice for a public authority at the time a contract is agreed to make a third party aware that any information it provides (either as part of an ongoing relationship or specifically with respect to any agreed contracts) will be subject to the Freedom of Information Act (paragraph 58, 'Commercial Interests (section 43) Freedom of Information Act guidance' online at <https://ico.org.uk/media/for-organisations/documents/1178/commercial-interests-section-43-foia-guidance.pdf>), and also that 'Public authorities must realise they cannot contract out of their FOIA statutory obligations'.

Will the Audit and Governance Committee ensure that all contracts and invitations to tender issued by Reading Borough Council warn potential contractors and purchasers that information provided by the Council may be placed in the public domain, and ensure that the Council complies with the guidance set out in the Information Commissioner's document 'Outsourcing and freedom of information' (<https://ico.org.uk/media/for-organisations/documents/1043530/outsourcing-and-freedom-of-information.pdf>), in order to prevent the lamentable practice of Borough Councillors hiding behind confidentiality arrangements to avoid discussion of controversial decisions?

REPLY by Councillor Stevens (Chairman of the Audit & Governance Committee):

I can confirm that all high value contracts, as defined in the Council's Contract procedure rules and invitations to tender issued by Reading Borough Council, contain provisions and clauses informing potential contractors that information provided by the Council is subject to the Freedom of Information Act 2000.

I believe you are mistaken when you say the Council has a "lamentable practice of Borough Councillors hiding behind confidentiality arrangements to avoid discussion of controversial decisions".

Section 43 of the Freedom of Information Act 2000 provides for the application of an exemption in respect of commercially sensitive information. I can assure Mr Burt that the S43 exemption, if relevant, is applied correctly and in accordance with the above Act.

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QUESTION NO. 2

Roger Lightfoot to ask the Chairman of the Audit & Governance Committee:

Arthur Hill Pool

Reading Borough Council promised to put the entire proceeds of the sale of Arthur Hill pool towards a replacement pool. At the Council meeting of 16 July Reading Borough Council decided to keep the sale transaction details confidential.

How can the general public be absolutely sure that RBC's promise of putting the entire proceeds towards the replacement be verified, and not have some or all of it siphoned off to other projects, thus at least paying some respect to his legacy?

REPLY by Councillor Stevens (Chairman of the Audit & Governance Committee):

At its meeting on 18th October 2016 the Council agreed that a sum equivalent to the capital receipt arising from the disposal of the site would be invested in new replacement swimming facilities.

The Council's Policy Committee on the 16th July 2018 considered a report seeking approval for the disposal of site following a marketing exercise. Due to the commercial nature of the process the details were not discussed in public.

The details are currently still confidential.

However, the contract sum once paid will be recorded in the Council's accounts, as will the expenditure on replacement swimming facilities. The Council's accounts are available for public inspection on an annual basis and subject to external audit.