

From: /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0AF2102975E24B24B33E25AD90C4EC39-GWEBSTER on behalf of Foi Enquiries
Sent: 29 January 2019 14:22
To: [REDACTED]
Subject: FOI-19-0004 - LOBO Loans
Attachments: V2 - Further Information - Right to Review & Appeal.pdf

Dear [REDACTED],

Thank you for your information request of 3 January 2019. Aberdeen City Council (ACC) has completed the necessary search for the information requested. Our response is now detailed below.

For each of the Lender Option, Borrower Option (LOBO) loans to which Council is currently party, and for any historical LOBO loans, please provide:

The publication of details of each Market Loan, lender, interest rate and sum outstanding, in the requested form, would put the Council at a 'competitive disadvantage'. Lenders could use this information to assist them to exercise their option to increase interest rates. Such an increase in costs to the Council would not be in the public interest. As far as possible, the requested information is listed below.

1) Loan principal

£3m, £15m, £15m, £10.9m, £10m, £10m, £10m, £10m, £10m

2) Maturity date

- 1) 15.05.2066
- 2), 3) & 4) 18.01.2049
- 5) & 6) 29.03.2055
- 7) 23.07.2077
- 8) 30.07.2077
- 9) 28.01.2078

3) Trade date when the loan was signed

- 1) 15.05.2006
- 2), 3) & 4) 16.01.2004
- 5) & 6) 29.03.2005
- 7) 23.07.2007
- 8) 30.07.2007
- 9) 28.01.2008

4) Initial interest rate

5) Current stepped-up interest rate and step-up date, where applicable

6) Any formula or structure determining the interest rate, where applicable

The publication of details of the interest rates of the LOBO loans would put the Council at a competitive disadvantage to other lenders, which could result in higher interest rates and increased costs to the Council, which would not be in the public interest.

Therefore, ACC is unable to provide you with information relating to the initial interest rate and Stepped-up interest rate and

step-up date where applicable as it is exempt from disclosure. In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby gives notice that we are refusing your request under the terms of Section 33(1)(b) – Commercial Interests - of the FOISA.

In making this decision ACC considered the following points:

The initial interest rate and any stepped-up interest rates are exempt from release in terms of Section 33(1)(b) of the Freedom of Information (Scotland) Act 2002 in that disclosure of the information would, or would be likely to, prejudice substantially the commercial interests of any person including a Scottish public authority. The agreements are on-going contracts and, as such, disclosure of this information is likely to substantially prejudice the interests of the Council.

Due to the tradable nature of these loans, it would not be in the interests of ACC to make this information publicly available. The loans are tradable by the lenders on the open market and contain an option for the lender to increase the interest rate of the loan. The interest rates are commercially sensitive due to the very nature of these loans. Publication of them would put the Council at a 'competitive disadvantage' to other lenders which could result in higher interest rates and increased costs to the Council, and subsequently to public funds, which would not be in the public interest.

Revealing the rates would put ACC in a position of unnecessary, additional risk. The risk would stem from requests for increases to the rates of these LOBO loans following the publication of this information. Financial institutions would be able to identify how much interest rate a local authority is willing to agree to and adjust their rates accordingly. They may also take the opportunity to 'buy up' the other loans and issue a blanket request of increase. ACC's position on these loans has always been to repay if a request for rate increase was received. If this information were to be released, this would clearly have significant financial risk to ACC.

ACC also considers that the commercial interests of third parties, namely the institutions providing the LOBO contracts would also be substantially harmed by disclosure. Disclosure of interest rates in relation to certain loans may prejudice the future position of the relevant organisations, particularly when negotiating loans with other public sector authorities. ACC took out these loans in the years leading up to the 'credit crunch', at a time when other interest rates were relatively high. In all cases, these loans represent a considerable saving over the comparable PWLB rates. A number of these loans were initiated during a large debt restructuring exercise, at a substantial saving to the Council, whereas the rest were offered at a substantial discount over the government (PWLB) borrowing rates at that time, thus also at a substantial saving to the Council.

Initially, these loans were approved by Head of Finance and reported to full Council. They are regularly monitored by the Treasury Officer and reported to full Council. ACC take a very serious approach to ensuring that appropriate scrutiny mechanisms are fully implemented into all aspects of financial management.

In conclusion, ACC considers that the necessity of protecting the Council's interests in retaining the agreement at its current state outweighs the public interest in the requested information being disclosed. ACC considers that disclosure would not contribute to either ensuring effective oversight of the expenditure of public funds or ensuring that the public obtain value for money for public funds. The information already published in relation to these contracts, along with the monitoring mechanisms in place, as detailed above, satisfies the public interest in ensuring value for money and the mitigation of foreseeable financial risk.

7) The first LOBO option call date

- 1) 15.05.2008
- 2) 16.01.2007
- 3) & 4) 16.01.2008
- 5) & 6) 29.03.2008
- 7) 23.07.2008
- 8) 30.07.2008
- 9) 28.01.2013

8) The LOBO option call frequency

- 1) & 2) Every 2 years
- 3), 4), 5) & 6) Six monthly
- 7) Every 4 years
- 8) & 9) Every 5 years

9) Day count convention used for calculation of interest payments

Actual/365

10) The relevant bank or financial institution(s) which issued the loan

ACC's Market loans were issued by the following lenders:-

Barclays Bank plc, Dexia Public Finance Bank, Depfa Bank plc & Dresdner Bank AG

11) The dates on which the lender exercised their option and the proposed interest rate, where applicable

No options have ever been exercised with any of ACC's Market Loans.

12) The Treasury Management Advisers employed by Council at the time the loan was agreed

Link Asset Services (formerly Capita Asset Services) are the Council's appointed Treasury Advisers.

13) The broker who arranged the loan (and the brokers involved in any subsequent restructure of the loan)

ACC have previously used the following brokers to arrange Market Loans:-

Martin Brokers, Tullet Prebon, Tradition, Sterling International Brokers.

14) The brokerage fee paid by Council for arranging the loan (and for any subsequent restructure of the loan)

We are unable to release the exact figures as this is commercially sensitive information.

Please see response below. For your guide, the broker fees paid are negotiable, based on a structure of £0.06% for the first 4 years only, as a maximum.

15) Where available, the original, unredacted LOBO loan contracts.

ACC is unable to provide you with copies of the original loan contracts, broker fees and their terms and conditions as they are considered exempt from disclosure. In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby gives notice that we are refusing your request under the terms of Section 33(1)(b) – Commercial Interests - of the FOISA.

In making this decision ACC considered the following points:

FOISA legislation entitles persons to request information not documentation and as such, requests for copies of documentation fall out-with the scope of the Act.

The information contained within these documents is exempt from release in terms of

Section 33(1)(b) of the Freedom of Information (Scotland) Act 2002 in that disclosure of the information would, or would be likely to, prejudice substantially the commercial interests of any person including a Scottish public authority. The agreements are on-going contracts and, as such, disclosure of the information contained within is likely to substantially prejudice the interests of the Council.

The Office of the Scottish Information Commissioner defines 'public interest' as that which is in the interest of the public not of interest to the public and that is the definition of public interest which ACC has followed when applying the public interest test to this exemption. As such, it may be of interest to the public to know which financial institutions ACC has borrowed from and when they were taken out. ACC has provided this information above and in our previous response.

It may also be of interest to the public to know that sufficient monitoring of the contracts, initially and on-going, is in place to mitigate any financial risk as much as possible. This is outlined below.

Due to the tradable nature of these loans, it would not be in the interests of ACC to make detailed information publicly available. The loans are tradable by the lenders on the open market and contain an option for the lender to increase the interest rate of the loan. The loan agreement documents are drawn up by the financial institutions concerned and the terms and conditions contained within these are commercially sensitive due to the very nature of these loans. Publication of the details of the terms and conditions of the LOBO loans would put the Council at a 'competitive disadvantage' to other lenders which could result in higher interest rates and increased costs to the Council, and subsequently to public funds, which would not be in the public interest.

Revealing the fine print of these agreements, including the terms and the interest rates would put ACC in a position of unnecessary, additional risk. The risk would stem from requests for increases to the rates of these LOBO loans following the publication of this information. Financial institutions would be able to identify how much interest rate a local authority is willing to agree to and adjust their rates accordingly. They may also take the opportunity to 'buy up' the other loans and issue a blanket request of increase. ACC's position on these loans has always been to repay if a request for rate increase was received. If this information were to be released, this would clearly have significant financial risk to ACC.

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Initially, these loans were approved by Head of Finance and reported to full Council. They are regularly monitored by the Treasury Officer and reported to full Council. ACC take a very serious approach to ensuring that appropriate scrutiny mechanisms are fully implemented into all aspects of financial management. In conclusion, ACC considers that the necessity of protecting the Council's interests in retaining the agreement at its current state outweighs the public interest in the requested information being disclosed. ACC considers that disclosure would not contribute to either ensuring effective oversight of the expenditure of public funds or ensuring that the public obtain value for money for public funds. The information already published in relation to these contracts, along with the monitoring mechanisms in place, as detailed above, satisfies the public interest in ensuring value for money and the mitigation of foreseeable financial risk.

We hope this helps with your request.

Yours sincerely,

Grant Webster
Access to Information Officer

INFORMATION ABOUT THE HANDLING OF YOUR REQUEST

ACC handled your request for information in accordance with the provisions of the Freedom of Information (Scotland) Act 2002. Please refer to the attached PDF for more information about your rights under FOISA.

Grant Webster | Access to Information Officer

Aberdeen City Council | Access to Information Team | Customer Feedback | Customer
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