



15 January 2015

INFORMATION REVIEW, REFERENCE 14-049

Dear 

We refer to your email of 15 December 2014 where you requested an internal review under the Freedom of Information (FoI) Act 2000 with regard to our response of 12 December 2014 to your request for information reference as above, received 25 November 2014.

The internal review has been completed and the findings and recommendations of the Internal Review team are as follows:

1. Report findings:

- 1.1. The initial response stated that there was no documented legal advice in relation to this application, other than that stated in the Committee papers which were publically available and had already been provided to the requestor on CD in relation to an earlier request.
- 1.2. In the internal review request you asked us to provide you with clarification that no legal notes of any kind were prepared by the legal officer to assist him in responding to the legal arguments in relation the planning application relating to the Manor Garden allotments.
- 1.3. The process for the original request was reviewed. Authorisation was requested from senior management for the Internal Review team to have access to the specialist software that permits a search across all the archive of all email received and sent by the London Legacy Development Corporation (Legacy Corporation). Permission was granted and the access established by the IT Service provider. This software is used in exceptional circumstances and is not part of the standard review procedure due to both its intrusive nature and the time required to compile and review the results of any search.
- 1.4. A search was undertaken of all email correspondence between the legal officer and the Senior Planning Development Manager responsible for this planning application. The search results were reviewed, printed and passed to the legal officer to review and identify if any legal advice, relevant to this application, was contained within the document bundle.

- 1.5. **Note:** When legal advice was being provided in relation to this matter (March 2014), the legal officer was based within the Legacy Corporation and within the same office building as the Legacy Corporation Planning Authority. At the beginning of May 2014, the in-house Legal service was transferred to Transport for London (TfL). All Legacy Corporation legal staff were transferred to TfL. When the original FoI request was received, as dated below, the legal officer was based at the TfL offices in Victoria, London.
- 1.6. The legal officer returned the bundle having identified two emails as relevant legal advice. The details for the identified emails are as follows:
- 21 March 2014 (sent at 17:54). Simon Kelly to Anne Ogundiya.
 - 24 March 2014 (sent at 11:49). Simon Kelly to Anne Ogundiya.

The emails themselves have been included in Annex A.

- 1.7. Personal information has been redacted from these emails as explained below:

FOIA Section 40 (2) – Personal Information.

(2) Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which do not fall within subsection (1), and

(b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

(i) any of the data protection principles

It is standard practice for the Legacy Corporation to redact personal information unless explicit consent to release the personal information has been received. As such, the email addresses for all named individuals within these emails have been redacted in line with section 40(2)(b) of the FOIA as detailed above. The redacted information is defined as data under the Data Protection Act 1998 section 1(1) and disclosing the information would contravene the first data protection principle, DPA 1998 Schedule 1, Part 1, 1(a) where personal data should be processed fairly and lawfully and not processed unless at least one of the conditions of schedule 2 is met. The relevant condition for this request is Schedule 2 (1) which requires the consent of the data subject. None of the individuals named within the emails have given consent for their personal information as described above to be disclosed therefore this information has been redacted.

- 1.8. During the majority of the review the Case Officer was absent and too much reliance was placed on the recall of the Legal Advisor in order to identify relevant correspondence.
- 1.9. While the Legal Advisor did search his emails on receipt of the original request, his approach to archiving emails and his level of information technology (IT) expertise meant that the emails were not easily identifiable or retrievable.

- 1.10. The Case Officer may have been able to retrieve the information but in her absence her emails in relation to this application were inaccessible via established procedures.

2. Recommendation:

- 2.1. In the absence of any case officer, all emails in relation to any 'live' or closed planning application should still be accessible to other Officers within the Planning Policy and Decisions Team (PPDT).
- 2.2. There is a Development Management (DM) Manual which provides guidance to the PPDT Officers in fulfilling their function as a local planning authority. This includes (amongst other areas) processes for the consideration of planning applications and internal procedures for the management of planning application files (both electronic and hard copy).
- 2.3. In this instance, the existing procedures in regards to email correspondence had not been followed even though the application had been determined and the file closed. This is why the emails for this request were not identifiable or accessible during the absence of the Case Officer.
- 2.4. In addition, there is no consistent approach to planning application email management, with each individual handling the information using their own preferred methodology.
- 2.5. The Internal Review team **recommend** that all emails pertinent to a planning application are saved into an indexed PDF document on determination of the planning application. This document will then be saved within the applicable PPDT section of the Legacy Corporation Fileserver.
- 2.6. The Internal Review team also **recommend** that the Planning Administration Manager analyse current working practices with regard to planning application email management and implement processes suitable for the effective and flexible application of this recommendation.
- 2.7. The changes to the processes will be incorporated into a revised DM manual.
- 2.8. These recommendations, once implemented, will resolve this identified issue and prevent its reoccurrence.
- 2.9. The recommendations will be reviewed and implemented by the end of February 2015.
- 2.10. The Internal Review team do not recommend that the specialist email archive search facility is introduced as part of the standard information request procedure as described in section 1.3. It is a powerful tool that is best reserved for exceptional circumstances.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website www.ico.gov.uk

Yours sincerely



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