



26 October 2015

**INFORMATION REQUEST REFERENCE 15-054**

Dear 

Thank you for your information request, received on 26 August 2015. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

*"On the 25th April 2013, the then CEO of LLDC, Denis Hone sent a letter to John Biggs, Chairman of the Budget and Performance committee*

*Copy of letter linked here -*

*<http://www.london.gov.uk/moderngov/documents/s25244/Appendix%204%20-%20Letter%20to%20John%20Biggs%20from%20LLDC%20-%20Olympic%20Stadium%20costs.pdf>*

*Within that letter was a section marked Value of West Ham in which was stated:*

*"The terms of the agreement intended to compensate the public purse for any increase in the value of West Ham as a result of this deal, should the club be sold at a profit. LLDC have sensible arrangements in place to protect the public sector investment that are acceptable to West Ham United FC, acceptable to the Government and acceptable to the Legacy Corporation's advisers. This protection takes two forms in order to protect the public purse. The Grantor will be paid a percentage of any uplift in the club's value over a current baseline value (which has been analysed and verified by our advisors) should the club be sold; and of payments based on WHU's on-field performance. The second protection is designed to link the club's likely overall increase in turnover to payments to the Grantor as increased financial success is likely to be linked to on-field performance"*

*The questions I would like request under freedom of information are:*

- 1) The baseline valuation of West Ham United in pounds sterling as verified and analysed by LLDC advisers?*
- 2) The actual percentage figure that will be paid to the Stadium Grantor over the baseline value of West Ham United should they ever be sold?*

- 3) *Whether there is any time limit on the clause which would pay the Stadium Grantor a percentage of the uplift in West Ham United's value if sold?*
- 4) *On the second protection referred to this paragraph, at what level of turnover in pounds sterling will West Ham United need to reach to trigger further payments to the Grantor?*
- 5) *Whether there is any time limit on the clause which would pay further financial payments to Grantor in the case of greater financial success of West Ham United?"*

The Legacy Corporation can confirm that they hold the information requested. The response is below.

- 1) *The baseline valuation of West Ham United in pounds sterling as verified and analysed by LLDC advisers?*

The information requested is being withheld under section 43(2) of the FOIA.

**Section 43(2) - Commercial interests.**

*(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).*

The section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

As the information requested impacts West Ham United, they have been consulted on the prejudice that would or would be likely to occur if this information was to be released into the public domain. They have confirmed that the disclosure of this information would prejudice the commercial interests of West Ham United. While it is recognised that there is a public interest in this information, it is not considered to be in the interest of the public to release this information at this time. It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

- 2) *The actual percentage figure that will be paid to the Stadium Grantor over the baseline value of West Ham United should they ever be sold?*
- 3) *Whether there is any time limit on the clause which would pay the Stadium Grantor a percentage of the uplift in West Ham United's value if sold?*

- 4) *On the second protection referred to this paragraph, at what level of turnover in pounds sterling will West Ham United need to reach to trigger further payments to the Grantor?*
- 5) *Whether there is any time limit on the clause which would pay further financial payments to Grantor in the case of greater financial success of West Ham United?"*

The information requested in 2, 3, 4 and 5 is being withheld under section 43(2) of the FOIA.

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The Legacy Corporation have assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information currently identified as commercially sensitive would be likely to prejudice commercial interests of the Stadium because it will reveal detail of financial information that would be likely to impact on current and future negotiations for use of the Stadium, or negotiations in the event of the sale of the Club, which in turn would harm the Stadium's ability to achieve best value for the public purse.

The Stadium needs to be able to successfully operate in a strong and very competitive market. The information identified as commercially sensitive, if disclosed, would be likely to put the Stadium at a competitive disadvantage within this market by allowing competitors of the Stadium, who are not subject to the same legislation, to gain access to commercially valuable information.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

If you are unhappy with our response to your request and wish to make a complaint or request a review of our decision, you should write to:

Executive Director of Finance and Corporate Services  
London Legacy Development Corporation  
Level 10  
1 Stratford Place  
Montfichet Road  
London  
E20 1EJ

Please note: complaints and requests for internal review received more than two months after the initial response will not be handled.

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](http://www.ico.gov.uk)

Yours sincerely

  
FOI / EIR Co-ordinator  
London Legacy Development Corporation