



Level 10  
1 Stratford Place  
Montfichet Road  
London  
E20 1EJ



21 December 2015

**INFORMATION REQUEST REFERENCE 15-077**

Dear [REDACTED],

Thank you for your information request, received on 18 September 2015. You asked the London Legacy Development Corporation (Legacy Corporation) under the Freedom of Information Act 2000 (FOIA) to reconsider our response to an earlier FOIA request, reference 14-058:

*“In the light of the Information Commissioner’s ruling on making public the E20 Stadium LLP/West Ham concession agreement could you now please provide me with an unredacted version of the minutes of the 19 February 2013 LLDC Board Meeting.*

*The version you sent me is attached and you told me that the redacted clauses relate to the decision, taken at that Board Meeting, that there was no state aid in the project.”*

The initial request 14-058 withheld the requested information within 9.4(h) under exemption s.42 – Legal Professional Privilege.

**Section 42 (Legal Professional Privilege)**

*(1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.*

The original response withheld 9.4(h) under this exemption. The withheld information was covered by the advice privilege and was considered confidential communications made for the purpose of legal advice. As it was a qualified exemption the public interest was taken into consideration and the Legacy Corporation recognised the public interest in promoting the transparency of their decisions and accountability, however they also recognised that there was a strong requirement to safeguard openness in communications between client and lawyer in order to ensure access to full and frank legal advice, which is essential to effective governance. The Legacy Corporation considered that disclosure would be prejudicial to the Legacy Corporation’s ability to consider how to approach any legal issues in the context of the request and prejudicial to its handling of any similar situations in future and there were accordingly a public interest in maintaining the exemption at that time.

An internal review was requested for the original request. A new public interest test was undertaken to weigh up the validity of the original decision. The justification for the use of the Section 42 exemption was investigated and further clarification was sought from the Legacy Corporation's legal representatives on the harm that disclosure of the state aid information could cause. This was then balanced against the reasons for releasing the information. It was the opinion of the Internal Reviewer that the public interest supports the information being withheld in the original response and supports the use of the FOIA Section 42 exemption for Legal Professional Privilege.

For this current request, given the passage of time, the public interest test was again considered. Given the exemption applied, the advice of the Legacy Corporation's legal representatives was again sought. The legal advice acknowledged that the factors in favour of disclosure were those relating to accountability, public awareness and debate/use of public funds however it also recognised that there was a strong public interest inherent in the protection of legally privileged information because of the impact of disclosure of legal advice on the administration of justice. Despite the passage of time it is clear that the legal advice falls within the scope of Section 42. The advice was provided within the part 2 of the Board meeting for the purpose of receiving confidential legal advice and as such is legally privileged.

The exemption is qualified and in considering the public interest test, the Legacy Corporation has had regard to the following factors:-

1. The general public interest inherent in Section 42 will always be strong due to the importance of the principle behind legal professional privilege: safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice. Strong countervailing considerations are needed to justify disclosure of legal advice.
2. The Legacy Corporation has considered the public interest factors in favour of disclosure of the requested information, including the general public interest in transparency and accountability of public bodies and informing the public debate about the Concession Agreement.
3. However, the Legacy Corporation has concluded that the stronger public interest lies in withholding the information because of the need to ensure that the Legacy Corporation as a public authority can obtain full and frank legal advice to inform its decision-making processes. There is a very strong public interest in ensuring that the Legacy Corporation can obtain such advice.

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