



Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

6 May 2016

INTERNAL REVIEW - REFERENCE 15-085

Dear [REDACTED]

We refer to your email where you requested an internal review under the Freedom of Information Act 2000 (FOIA) with regard to the handling of your information request by the London Legacy Development Corporation (Legacy Corporation) as referenced above.

The original request was received by the Legacy Corporation on 8 January 2016. The request included 5 questions in relation to the Stadium. The response was due by 5 February 2016.

The Legacy Corporation responded on 4 February 2016. An email was received on 4 February questioning aspects of the Legacy Corporation response. No acknowledgement or response was sent to the requestor for this follow-up email. The request for internal review was received on 19 February 2016 for the handling of the follow-up request.

1. The Panel reviewed the process for the original request and subsequent response; however they focused mainly on the challenges to the Legacy Corporation responses to questions 4 and 5 and the handling of the request(s) as requested by the complainant.
2. Handling of response, including follow up questions
 - 2.1. After receiving the follow up request, the Stadium team was contacted for a response and an opinion was then sought from Legal about the best way to proceed, however, the request for an internal review was received before a clear response approach had been decided upon.
 - 2.2. The Panel noted that when the requestor sent his follow up email (4 February 2016), he was not contacted at that time to ask for clarification of what he believed to be the inaccuracy or to confirm receipt of his response.
 - 2.3. Freedom of information requests should be responded to within 20 working days of their receipt, except for exceptional circumstances where the public interest test is being considered in relation to exemptions.

- 2.4. The Panel note that this response was sent within this timeframe, 19 working days, however the Panel also note that the requestor, in his follow up correspondence, expected a response within the original information request time scale, which at that time had one day remaining, even though certain aspects of his follow up correspondence could have been considered to be a new information request.
- 2.5. Recommendation: Any correspondence received after a response has been sent, but clearly linked to that response, should be clarified with the requestor in order to ensure that it is addressed properly. The clarification should help identify how the correspondence should be treated, for example, if it should be treated as a new information request or a complaint/internal review or if it can be answered immediately without a new process being initiated. Where necessary, legal advice should be sought.
- 2.6. Recommendation: The guidance on handling information requests should be revised to include advice and processes for how to effectively manage follow up correspondence. Where appropriate, this guidance should be published on the Legacy Corporation website.
3. Question no. 4
- 3.1. The original question 4 asked *“Who would be responsible for funding any agreed expansion of the seating capacity of the Olympic Stadium in football mode, and are there any circumstances that change this?”*
- 3.2. The Legacy Corporation response was that there were *“already sufficient seats in the stadium to accommodate 60,000 spectators. Nevertheless, any costs associated with increasing the capacity for football matches would be subject to further discussion between the relevant parties.”*
- 3.3. The requestor responded to the original response as above on the day of receipt (4 February 2016).
- “Thanks for your reply. I note however that answer 4 contains a factual inaccuracy and doesn't address the question asked; q5 has also been inadequately addressed.*
- Please would you provide an answer based in the context of the question. In football mode, the stadium supports not 60,000 supporters but 54,000. I am seeking to clarify whether - under the terms of the existing agreement - whether the proposed expansion referred to by Mrs Brady would be funded by West Ham, E20, or whether there is no such provision.”*
- 3.4. While it has been widely published that the Stadium will be a 54,000 all-seater UEFA category 4 football stadium, it is in the public domain that the gross seating capacity for the Stadium is in excess of 60,000, see: <http://queenelizabetholympicpark.co.uk/media/press-releases/mayor-announces-vinci-appointed-as-operator-for-former-olympic-stadium>, however this does include media seats, restricted view and netted off seats.

- 3.5. The Panel believes that a more detailed explanation around the original response provided for question 4, especially for the 60,000 figure, would have avoided any confusion and assumptions of factual inaccuracy by the requestor.
 - 3.6. Recommendation: Future responses should be as complete as possible and where information being provided could be misinterpreted or considered confusing, then further explanations should be included wherever possible.
 - 3.7. In relation to the question “*Who would be responsible for funding any agreed expansion of the seating capacity of the Olympic Stadium in football mode*”. The Concession Agreement between E20 and West Ham, 22nd March 2013 (Concession agreement) is in the public domain at <http://queenelizabetholympicpark.co.uk/~media/lldc/concession%20agreement%202016.pdf>, with one redaction (a FOIA section 40 exemption for personal information).
 - 3.8. Clause 15 of the Concession agreement deals with “Improvements or Alterations” and also provides a definition of improvements or alterations within the context of the Concession agreement. There is no specific reference in this clause to costs associated with increases to the agreed capacity.
 - 3.9. The requestor also originally asked “*are there any circumstances that change this*” in relation to who would be responsible for funding any agreed expansion of the seating capacity of the Olympic Stadium in Football mode.
 - 3.10. As was mentioned in the original response, any costs associated with increasing the capacity for football matches would be subject to further discussion between the relevant parties. The relevant parties in this instance would be the party requesting the expansion, and E20 Stadium LLP. The party requesting the seat expansion would need to apply to E20 and each request would be considered on a case by case basis with consideration given to the funding and cost at that time.
4. Question no. 5
- 4.1. The original question 5 asked “*Under what circumstances are public funds - by which I mean E20, LLDC, local authority, government or other funds provided or supplemented by the public purse - used for stadium enhancements? Please constrain this answer to football use only.*”
 - 4.2. The Legacy Corporation response was that “*Public funds may be used for stadium enhancements subject to affordability and the demonstration of an acceptable return on investment for the taxpayer.*”
 - 4.3. The requestor’s follow up email requested that the Legacy Corporation “*expand on your answer to q5 in the context of the agreement with West Ham. I believe there are circumstances outlined in the contract that require the Grantor to fund improvements regardless of ROI. Please state clearly these circumstances, and in*

particular address the context of the question which the proposed capacity expansion in football mode.

I would be grateful for a rapid turnaround given that the initial 20 days is up tomorrow.

- 4.4. Legal guidance was sought regarding the requestor's additional query in relation to question 5 because at that time the concession agreement had not been fully released,
- 4.5. The guidance received recommended referring the requestor to clause 15 within the Concession agreement, as it relates to improvements and alterations generally and the requestor refers to provisions in the contract requiring the Grantor to fund improvements.
- 4.6. The panel also received guidance there are no other provisions elsewhere that relate to who pays for any expansion of the Agreed Capacity.
- 4.7. Recommendation: The requestor should be directed to the Concession Agreement between E20 and West Ham, 22nd March 2013 (Concession agreement) which is now in the public domain.
- 4.8. As per the above response for question 4, clause 15 should be highlighted in responding to the question.

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


Executive Director of Finance & Corporate Services
London Legacy Development Corporation