

30 March 2017

**INTERNAL REVIEW - REFERENCE 16-108**

Dear [REDACTED]

We refer to your email of 04 January 2017 where you requested an internal review under the Freedom of Information Act 2000 (FOIA) with regard to the redaction of information, specifically Annex F, in the response you received from the London Legacy Development Corporation (Legacy Corporation) in relation to your information request reference as above.

**1. Background**

The original request was received on 13 September 2016 and requested the Legacy Corporation to:

*“... provide copies of all correspondence between the LLDC and any representative or employee of West Ham United FC on the following subjects:*

- *Stewarding*
- *Standing in the London Stadium*
- *Banning of supporters”*

Our response was sent on 22 December 2016, with the relevant material set out in Annexes A to F for ease of reference. As certain lines within that material had been redacted under exemptions s.40(2), S.41, and S.43 (2) a detailed explanation for the application of each of those exemptions had also been provided.

In the case of Annex F, the exemption applied was s.43(2) – commercial interests on the grounds that the information requested, if released into the public domain, would be likely to prejudice our commercial interests or the commercial interests of a third party.

Your subsequent email request for internal review was received on 04 January 2017 and stated:

*“I'd like to appeal the application of section 43 in relation to Annex F.*

*You state this exemption has essentially been applied for 'reputational reasons' however I do not consider this sufficient to engage the exemption.*

*If the information is inaccurate and has since been resolved then your response can simply explain this to avoid confusion or misrepresentation.*

*Information that might be 'embarrassing' isn't covered by any exemption and you've offered no detail for how providing the info would harm the commercial interests of LS185.*

*Even if s43 were engaged, there has been considerable media attention about the issue of stewarding and so an obvious public interest in this matter. As you acknowledge, the emails relate to an issue that is no longer live and so there is no time sensitivity at play.*

*You are of course welcome to provide the information alongside supplementary information to explain and contextualise the content if there are concerns that the information generated at that time is no longer accurate.*

*Please reconsider this exemption.”*

## **2. Review findings:**

The internal review – in which the panel reassessed the information within Annex F – has now been completed and the findings and recommendations of the review are as follows:

The panel consider that the section 43(2) exemption is engaged correctly in this instance because of the on-going potential to prejudice a third party's (LS185) commercial interests should the redacted information be disclosed.

While the panel recognised that the specific concerns referred to in this material had now passed, it considered the sensitivity attached to those concerns still current and, as such, capable of ongoing adverse influence on the commercial decisions of LS185 contractual clients, both existing and future.

LS185 had also contested the accuracy of material in Annex F and this had been set out in the original response. The panel reviewed the material in that context and was satisfied that the redaction still hold as the argument against disclosure had been made on grounds of unjustified “reputational damage” from an economic and market place perspective rather than a public relations stance.

## **3. Panel Recommendations:**

After a full consideration the internal review panel consider that the original response was correct in withholding the information under section 43(2).

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

Gerry Murphy  
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London Legacy Development Corporation