



Level 10  
1 Stratford Place  
Montfichet Road  
London  
E20 1EJ



20 December 2016

**INFORMATION REQUEST REFERENCE 16108**

Dear

Thank you for your information request, received on 13 September 2016. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

*“Could you please 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*

*Please provide this information from 20 July 2016 to date.”*

Searches were undertaken across the London Legacy email archive on the following criteria:

All emails from “@londonlegacy.co.uk” to “@westhamunited.co.uk”  
All emails from “@westhamunited.co.uk” to “@londonlegacy.co.uk”  
Date sent from 2016/07/20 to 2016/09/13 (inclusive)

Entire message containing > Steward or Standing or Ban.

The correspondence that matched your request is attached in Annex A to Annex E. Please be advised that information has been redacted in this correspondence. The schedule below details the redactions made in each piece of correspondence and the exemption(s) applied.

Reference	Exemption	
Annex A	s.40(2)	Personal data
Annex B	s.40(2)	Personal data
Annex C	s.40(2)	Personal data
Annex D	s.40(2)	Personal data
Annex E	s.40(2)	Personal data
Annex E	s.41	Provided in confidence
Annex F	s.40(2)	Personal data

Annex F	s.43(2)	Commercially sensitive
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Detailed explanation for the use of the exemptions has been included below.

*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.*

Please be advised that it is the standard practice of the Legacy Corporation to redact personal information unless consent to release the information has been received. The section 40 exemption is absolute and is not subject to the public interest test. In this instance, the relevant condition that applies is section 40(2) whereby the information is defined as personal data within Section 1(1)(a) of the Data Protection Act 1998. As we have not received consent of the data subjects, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

*Section 41 - Information provided in confidence.*

*(1) Information is exempt information if—*

*(a) it was obtained by the public authority from any other person (including another public authority), and  
(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.*

The section 41 exemption is an absolute exemption and is not subject to the public interest test.

The information in Annex E was provided to the Legacy Corporation by West Ham United on the express condition that it would be treated as confidential and the Legacy Corporation would respect that confidence. Disclosure of this information, which relates to sensitive communications between West Ham and a third party, would be likely to damage the commercial relationship between West Ham and that third party and as a consequence would be likely to cause significant damage to the commercial relationship between LLDC and West Ham. We have consulted West Ham about this information and West Ham have argued strongly that they would feel constrained from communicating freely with LLDC on confidential issues if those confidential communications may be disclosed to the public at large. It is very important, in the public interest, that LLDC is able to communicate with West Ham about confidential matters on an open basis. We do not consider that there is any significant public interest in disclosure of the redacted information and certainly there is no public interest which would be sufficient to justify the breach of confidence.

*S.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 exemption in 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.

The Legacy Corporation have assessed the impact of releasing the information redacted in Annex F under this exemption. We have concluded, taking account of submissions made by an affected third party to which the information relates, that disclosure would be likely to cause significant prejudice to the commercial interests of that third party. The affected third party, LS185 (the Stadium Operator) has made representations about why disclosure would prejudice its commercial interests and is not in the public interest. They argue that the information identified as commercially sensitive, if disclosed, would be likely to cause significant and unjustified reputational damage which would have an impact on its position in the market and its ability to secure future contracts. Having considered the information and LS185's arguments we agree that the information falls within the scope of section 43(2).

In relation to the public interest, there is, of course, a public interest in promoting transparency; however, 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. This is because the commercial prejudice that would likely be caused by disclosure is very significant, compared with the public interest in disclosure of the information in question. We are informed that the information is not accurate and that the issues it relates to have been resolved.

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:

Deputy Chief Executive  
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