



7 March 2017

**INTERNAL REVIEW - REFERENCE 16112**

Dear 

We refer to your email of 15 December 2016 where you requested an internal review under the Freedom of Information Act 2000 (FOIA) with regard to the response you received from the London Legacy Development Corporation (Legacy Corporation) in relation to your information request reference as above.

**Background**

The original request was received on 28 October 2016:

*"In previous correspondence you informed me that Balfour Beatty would hand over a completion Certificate to you in 2016. Please may I have a copy of that Certificate please"*

The deadline of 25 November 2016 was extended for consideration of the use of the s.31(1)(a) exemption; FOIA Section.31- Law enforcement; (1)Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice (a) the prevention or detection of crime.

As a result of the public interest test certain entries were redacted under s.31(1)(a). The response also redacted the personal information on the certificate under section 40 – personal information as the Legacy Corporation did not have consent to release this information into the public domain.

The response was sent on 15 December 2016. The response has been attached in Annex A for reference.

The internal review was received on 15 December 2016 and stated as follows:

*"I now wish you to review your decision based on the following two points*

- 1. You are now in contempt of the ECHR and in particular the Magyar Helsinki Bizottsag case 6th Nov2016. In particular, there should be NO REDACTIONS.*
- 2. None of the documents you provided make any reference to Public Liability Insurance of Lightning Protection as per my FOIA request.*

3. *I am somewhat concerned at the size and the gravity of the remedial check list but as it involves Balfour Beatty nothing surprise me.*

1. The requester was notified that the internal review would consider the redactions under s.40 – personal information.
2. In relation to the second point, the requestor was referred to an earlier email exchange relating to the original request, dated 24 November 2016 and attached as Annex B for reference, in which it was clarified with the requestor that he had not requested the public liability insurance in this request (ref: 16112) and that was why it had not been provided. Therefore, this point was not considered in the internal review.
3. The third point was considered to be personal opinion and was not considered as part of the internal review.

### **Review findings:**

The Legacy Corporation sought legal advice in order to consider their response to the requestor's claim that using the FOIA section 40 (2) exemption to withhold personal data where consent had not been received, meant that the Legacy Corporation was in contempt of Article 10 of the European Court of Human Rights.

We noted your reference to the judgment of the European Court of Human Rights in the Magyar case. In the Magyar case the Court found that as a matter of principle, a refusal to provide information in response to a request is capable of engaging Article 10 of the European Convention on Human Rights in some circumstances. On the specific facts of that case the Court found that there had been a breach of Article 10. It does not follow that public authorities in this jurisdiction will be in breach of Article 10 if they redact personal data when responding to an FOI request. The exemption in section 40(2) continues to have effect.

### **Panel Recommendations:**

The recommendation of the internal review is that the exemptions in section 40(2) made in the original response continue to have effect.

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

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London Legacy Development Corporation