

21 December 2016

INFORMATION REQUEST REFERENCE 16114

Dear [REDACTED]

Thank you for your information request, received on 2 November 2016. You asked the London Legacy Development Corporation (Legacy Corporation) and E20 Stadium LLP (E20) to provide the following information under the Freedom of Information Act 2000 (FOIA):

From 1st August to November 1st 2016 (inclusive), please can you provide the following:

- 1. A list of companies and organisations who have hired the London Stadium or utilised space owned on the stadium podium by E20/LLDC for commercial purposes (for WHUFC this includes match days)*
- 2. The dates and periods of time the stadium/podium was utilised for the purposes of point 1.*
- 3. If WHUFC have utilised the stadium/podium as per point 1, please can you confirm if the terms for those events are covered within the 99 year rental agreement between WHUFC and E20/LLDC? If not, please provide details of the additional cost to WHUFC or E20/LLDC beyond those identified within the rental agreement.*

West Ham used the Stadium on the following days between 1 August 2016 and 1 November 2016:

3 August 2016	Pre-match training (within terms of the Concession agreement)
4 August 2016	WHU v NK Domzale (within terms of the Concession agreement)
7 August 2016	WHU v Juventus (within terms of the Concession agreement)
20 August 2016	Pre-match training (within terms of the Concession agreement)
21 August 2016	WHU v Bournemouth (within terms of the Concession agreement)
25 August 2016	WHU v Astra Giurgiu (within terms of the Concession agreement)
10 September 2016	WHU v Watford (within terms of the Concession agreement)
13 September 2016	Pre-match training (charged for separately. Withheld under s.43(2).
21 September 2016	WHU v Accrington Stanley (within terms of the Concession agreement)
25 September 2016	WHU v Southampton (within terms of the Concession agreement)
1 October 2016	WHU v Middlesbrough (within terms of the Concession agreement)
21 October 2016	Pre-match training (within terms of the Concession agreement)
22 October 2016	WHU v Sunderland (within terms of the Concession agreement)

26 October 2016

WHU v Chelsea (within terms of the Concession agreement)

There was one event on 13 September 2016 where WHU used the Stadium outside of the terms of the Concession Agreement. We can confirm that West Ham has been invoiced for activities held on this date however the information is held by the operator London Stadium 185 (LS185) and they have been consulted in this matter as the request relates to information that they hold. After consultation, this information is being withheld under s.43(2) – commercial interests. Releasing this information would be likely to prejudice the commercial interests of LS185, and thus E20, by drawing comparisons from other clients that may wish to hold events at the stadium. This would harm LS185's ability to retain a strong negotiation position and harm E20's ability to obtain value for money for the public purse. By releasing the amount paid we would provide a benchmark for other potential users of the Stadium as well as our competitors and create a precedent for future events. This would harm LS185's ability to maximise income from future events and this would be detrimental to the income E20 generates on behalf of the taxpayer.

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 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 and E20 have assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency of the costs and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information currently identified as commercially sensitive would be likely to prejudice commercial interests of the Stadium because it will reveal financial information which would be likely impact on current and future negotiations for use of the Stadium, which in turn would harm the Stadium's ability to achieve best value for the public purse.

The Stadium needs to be able to successfully operate in a small, strong and very competitive market. The information identified as commercially sensitive, if disclosed, would be likely to put the Stadium at a competitive disadvantage within this market by allowing competitors of the Stadium, who are not subject to the same legislation, to gain access to commercially valuable information.

It is the view of the Legacy Corporation and E20 that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

E20 and the Legacy Corporation can confirm that LS185 hold a list of companies and organisations who have hired the Stadium or utilised space owned on the stadium podium for commercial purposes. The London Stadium and podium is operated as a commercial enterprise by London Stadium 185 (LS185). Any events that LS185 enters into with third parties in respect of events held at the Stadium that are considered to be an operator agreement within the term of the West Ham concession agreement are considered to be LS185 information held on their own behalf. While E20 and the Legacy Corporation hold some information on the events at the Stadium, it is being withheld under section 43(2) of FOIA.

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).

Releasing a list of the clients of LS185 into the public domain would enable rival venues to pursue them and would be likely to prejudice the commercial interests of LS185, and thus E20. This would harm LS185's ability to remain competitive and harm E20's ability to obtain value for money for the public purse.

The 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 and E20 have assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency in regards to the agreements that are entered into, however, the disclosure of the information currently identified as commercially sensitive would be likely to prejudice commercial interests of the Stadium because it will reveal the LS185 client list which would be likely impact on current and future negotiations for use of the Stadium, which in turn would harm the Stadium's ability to achieve best value for the public purse.

The Stadium needs to be able to successfully operate in a small, strong and very competitive market. The information identified as commercially sensitive, if disclosed, would be likely to put the Stadium at a competitive disadvantage within this market by allowing competitors of the Stadium, who are not subject to the same legislation, to gain access to commercially valuable information.

It is the view of the Legacy Corporation and E20 that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

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

Yours sincerely


FOI / EIR Co-ordinator
London Legacy Development Corporation