



13 September 2017

INTERNAL REVIEW - REFERENCE 16118

Dear 

We refer to your email of 27 February 2017 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.

The internal review has been completed and the findings and recommendations of the internal review are as follows:

1. Background

The original request was received on 7 November 2016:

- “1. Names of all companies that have provided security services for West Ham United (WHU) matches separated for each match.*
- 2. How were these companies chosen? Please include method (i.e. tender) and criteria they were selected on.*
- 3. Please provide all instructions, correspondence and meeting minutes with external security companies in relation to the Stoke City game on 5 November 2016.”*

The deadline of 5 December 2016 was extended for consideration of section 31(1)(a) - 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.

The response was sent on 19 December 2016. The full response is below:

“I can confirm that this information is held by LS185 on behalf of E20 and the Legacy Corporation.

Q.1 Names of all companies that have provided security services for West Ham United (WHU) matches separated for each match.

This information is held by the stadium operators, London Stadium 185 (LS185) and is not held by the Legacy Corporation or E20. LS185 has a contract with OCS for these services – this information is in the public domain.

Q.2 How were these companies chosen? Please include method (i.e. tender) and criteria they were selected on

LS185 has a contract with OCS for these services – this information is in the public domain. OCS took part in a competitive tender run by LS185 and were awarded the contract on 30 May 2015.

The criteria used in the procurement are held by the stadium operators, LS185 and is not held by the E20 or Legacy Corporation.

Q.3 Please provide all instructions, correspondence and meeting minutes with external security companies in relation to the Stoke City game on 5 November 2016.”

This information is held by the stadium operators, London Stadium 185 (LS185) and is not held by the Legacy Corporation or E20. LS185 are not providing the information and have confirmed that it is being withheld under section 31(1)(a) of the FOIA.

S.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*

The section 31 exemption 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 the prevention of crime. 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 this information and consider that the public interest in this particular information, namely details of the security instructions, correspondence and meeting minutes provided to the security companies in relation to the Stoke City game would not benefit from this information being released into the public domain. The security of the Stadium and all future matches would be jeopardised, and the prevention of crime would be likely to be prejudiced. It is the view of the Legacy Corporation and E20 that the public interest in withholding the information outweighs the public interest in disclosing it.”

The internal review request was received on 21 December 2016:

“Could I please appeal your exemption. I think it is very unlikely that literally every piece of information held on this is subject to the exemption and not a single email or meeting minute could possibly be disclosed.

So I doubt that, in all cases, the exemption is even engaged to begin with.

About the Public interest - As you are probably aware, there have been lots and lots of complaints about the security procedures in place at the Stadium. Heavy handed 'bouncers' being deployed, many of them not displaying their identification and in many cases seemingly there only to aggravate and antagonise supporters rather than ensure their safety.

There is significant public interest in determining that the instructions given to these 'security' personnel is conveyed with the safety of supporters in mind and that sensible policies are adopted. Several supporters have had bans overturned thanks to CCTV footage contradicting the false claims of your security staff and there is genuine concern that groups of people are being targeted with a view to finding any reason, however tenuous, to evict them from the stadium.

The conduct of yourselves and the part you play in ensuring attendee safety and enjoyment is a matter of considerable public interest. The treatment of countless supporters indicate there is a general disdain and contempt towards supporters and so provision of this information would go some way to address these concerns.

The match in question appears to feature one of the security companies requesting people with 'fighting experience' and there as a noticeable deployment of nightclub style bouncers clearly not there as regular stewards. I don't think explaining and justifying what went on for the Stoke game would have any affect on preventing crime. Each supporter is identifiable by their seat and there is extensive CCTV throughout the stadium. Disclosing the measures adopted at one game in the past is very unlikely to affect future crime prevention/detection and so I do not think the exemption is valid.”

The request was clarified on 11 January 2017 and confirmed that the internal review focused on the original response to question 3, with the proviso that any information in relation to questions 1 and 2 should be included if possible.

2. Review findings:

The original request was a three part question. The requestor appears satisfied with the response to the first two questions, however the clarification of 11 January 2017 expressed that if information came to light in relation to these questions it should be included in the review. The internal review panel (Panel) therefore mainly focused their review on the responses to the third question, relating to instructions, correspondence and meeting minutes with external security companies in relation to the Stoke City game on 5 November 2016.

The review request has challenged the application of the FOIA section 31 exemption S.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.

The original respondent assumed that all the correspondence requested was between LS185 and the provider of their security service as only they would be in direct communication with them. LS185 did not provide the information, which was withheld under section 31(1)(a) of the FOIA. The LS185 information has not been provided to either LLDC or E20, although multiple requests have been made to gather this information from LS185.

The internal review has therefore not been able to review or assess the basis for the original response

The internal review instructed that a search of the email archives of the Legacy Corporation and E20 be undertaken to see if either E20 or the Legacy Corporation had been included in any relevant correspondence between LS185 and OCS.

As a result of this search a number of emails were found that related to the West Ham United versus Stoke City game on 5 November 2016. These emails included attachments for Staff Briefings, Response Team Deployments, Senior Supervisor Briefings, Steward Briefings, as well as Visitor Supporter Coach Park information. The panel carried out a public interest assessment on these emails. The emails identified as relevant to this request are attached in Annex A.

The Panel found that it had been incorrect to state in the response to the FOI request that the Legacy Corporation and E20 Stadium LLP did not hold the information requested as it did hold information, namely the emails now provided in Annex A. However, the Panel is satisfied that there was no attempt to mislead in responding to the FOI.

Following a review of the documents held by the Legacy Corporation and E20, from the evidence within the available correspondence, the Panel found that while the information circulated was in relation to this particular Stoke game, it would provide insight into overall match security which would impact on the future effectiveness of security if it was released into the public domain.

In relation to the information available to the Panel, the Panel concluded that the use of section 31 was likely to be reasonable in the original response. However, without access to all the relevant information held by LS185, the Panel cannot assess whether a blanket application of the s.31 exemption over all of the information is appropriate.

The emails identified as relevant to this request are attached in Annex A. Please note that some information in relation to either security or personal information has been redacted or withheld under the following FOIA exemptions:

s.31(1)(a) – prevention of crime; and
s.40 – personal information of FOIA.

A schedule of the redactions is in Annex B and the public interest test for the application of s.40(2) and s.31(1)(a) redactions is 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.*

It is the standard practice of the Legacy Corporation and E20 to redact personal information where consent to release the information has not 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. The redacted information includes phone numbers and names, and names within email addresses. 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.

S.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 mentioned in detail in the original response and included above, section 31 is a qualified exemption subject to the prejudice test and the public interest test and 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 information withheld under this exemption includes detailed information in relation to the security processes and procedures for football events held at the London Stadium. The Panel has assessed the impact of releasing this information and consider that, for this specific information, the public interest would not benefit from this information being released into the public domain. The security and safety of the Stadium would be jeopardised, and the prevention of crime and safety of events at the Stadium would be prejudiced. It is the view of

the panel that the public interest in withholding the information outweighs the public interest in disclosing it.

Finally, in conducting a review of the documents held by the Legacy Corporation, the Panel found no evidence to substantiate the requestor's claim that there were instructions relating to security officers with *'fighting experience'* or the *"deployment of nightclub style bouncers"*.

The absence of further comment on the claims in the requesters appeal does not constitute agreement of same by the Legacy Corporation.

3. Panel Recommendations:

The Panel recommends that the emails found on the Legacy Corporation and E20 archive are released under Annex A with the attachments withheld as specified above.

The Panel also recommends that in future, in relation to FOIA requests that relate to information held by other parties on behalf of the Legacy Corporation or E20, the FOI/EIR Coordinator should also undertake all necessary searches on internally held information in order to identify if the Legacy Corporation or E20 holds copies of the information requested, in addition to approaching the third party that holds the information.

Since the original request, the Legacy Corporation and E20 are working closely with LS185 to ensure that all parties are clear on their FOIA responsibilities.

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

Gerry Murphy

Deputy Chief Executive
London Legacy Development Corporation