

Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ



18 April 2017

INFORMATION REQUEST REFERENCE 17-005

Dear 

Thank you for your information request, received on 16 January 2017. You asked E20 Stadium LLP (E20) and London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

"Note that in the text below:

** "Schedule 2" means Schedule 2 of the Stadium Plus Operator Agreement between E20 Stadium LLP, LLDC and LS185 Ltd.*

** The requests for information relate to information held by either E20 or LLDC.*

For the period from 16/01/2016 until 16/01/2017, please provide:

- 1) All KPI "compliance reports" (as described in Schedule 2, Appendix B) held by E20/LLDC. This includes any Pre Event reports, Post Event reports, Monthly reports, Quarterly Reports and Annual reports.*
- 2) All Monthly KPI Performance Reports (as defined in Schedule 2, Appendix C, Paragraph 8) held by E20/LLDC.*
- 3) Any Warning Notices issued to LS185 (under Schedule 2, Appendix C, Paragraph 5).*
- 4) Any Rectification Plans provided by LS185 (under Schedule 2, Appendix C, Paragraph 6).*
- 5) Minutes for all Performance Review Meetings (as defined in Schedule 2, Appendix C) held by E20/LLDC.*

6) A list of months (if any) in which Service Credits (as defined in Schedule 2, Appendix C) have accrued.”

I can confirm that E20 and the Legacy Corporation hold information relevant to your request. Our response follows your order:

- 1) All KPI "compliance reports" (as described in Schedule 2, Appendix B) held by E20/LLDC. This includes any Pre Event reports, Post Event reports, Monthly reports, Quarterly Reports and Annual reports.*
- 2) All Monthly KPI Performance Reports (as defined in Schedule 2, Appendix C, Paragraph 8) held by E20/LLDC.*

E20 can confirm that it holds compliance reports and performance reports however E20 and the Legacy Corporation are withholding this information under FOIA section 41 – Information provided in confidence:

S. 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.

This is an absolute and class-based exemption and as such is not subject to the prejudice test or the public interest test.

LS185 provide E20 with detailed reports on compliance and performance issues in relation to the operation of the London Stadium. These reports are provided to E20 on the basis that they are confidential information and are not to be published or shared with any third party.

The value of the reports is in LS185's confidence that they can provide candid reports to E20 on the clear understanding that the information in the reports will not be shared and will not be made public. If there was an expectation of the reports being publically available then the information included in the report would be restricted and edited to minimise any adverse impact from the publication, for example in relation to security or the operation of the Stadium.

3) Any Warning Notices issued to LS185 (under Schedule 2, Appendix C, Paragraph 5).

E20 have not issued any warning notices to LS185.

4) Any Rectification Plans provided by LS185 (under Schedule 2, Appendix C, Paragraph 6).

See the response to question 3, no warning notices have been issued to LS185.

5) Minutes for all Performance Review Meetings (as defined in Schedule 2, Appendix C) held by E20/LLDC.

The minutes for the Monthly KPI meetings are attached in Annex A.

Please note that information has been redacted under the FOIA exemptions:

Section 43(2) – commercial interests
Section 31(1)(a) – prevention of crime
Section 40(2) – personal information.

A schedule that details the specific exemption for each redaction is attached in Annex B.

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 have assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information within the minutes currently identified as commercially sensitive would be likely to prejudice commercial interests of the either E20 or LS185, by potentially causing a competitive disadvantage, or impacting on negotiations, which in turn would harm E20's ability to achieve best value for the public purse.

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

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.

E20 and the Legacy Corporation have assessed the impact of releasing this information and consider that the public interest in this particular information, which includes details of the security operations in relation to the Stadium, would not benefit from this information being released into the public domain. The security of the Stadium would be jeopardised, and the prevention of crime would be likely to be prejudiced. It is the view of E20 and the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.

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.*

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.

E20 and the Legacy Corporation acknowledge the need for accountability and transparency from public authorities and recognise that their employees will therefore have some expectation that data relating to their professional role may, in some limited circumstances, be disclosed. This will depend on a number of factors, including whether the information relates to the employee in their professional role or to them as individuals, the individual's seniority in their professional role, the consequences of disclosure to the individuals and whether the information is already readily accessible and in the public domain. E20 and the Legacy Corporation need to balance the interest in the public having the employees' names against the rights and freedoms of the employees to carry out their role and responsibilities.

Where an individual's name remains redacted, either consent was not received or the individual would not have an expectation of their name being disclosed.

6) A list of months (if any) in which Service Credits (as defined in Schedule 2, Appendix C) have accrued.

Service credits have not accrued, therefore E20 or the Legacy Corporation do not hold this information.

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:

Director
E20 Stadium LLP
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 / E20 Stadium LLP