

[REDACTED]

12 February 2019

INFORMATION REQUEST REFERENCE 18-091

Dear [REDACTED]

Thank you for your information request, received on 20 December 2018. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“Please can you provide me with all communications (E-Mail, Letter or any other form of physical or technological communication) as well as any relevant meeting minutes where a representative of Formans Restaurant & Bar (Stour Road, Fish Island, London E3 2NT) was present or made representations for the period of time between 01/01/2018 & 20/12/2018 (the date this FOI request was raised)?

If recorded communications between the two parties was by telephone, please (if possible) can the recorded times and dates of those calls be disclosed. If any potential telephone conversations cannot be verified, then I do not seek further examination of LLDC records to uncover such evidence.”

I can confirm that the Legacy Corporation holds information which falls within the scope of your request.

A search was undertaken of the Legacy Corporation email archive for all correspondence between the Legacy Corporation and the email domain “@formans.co.uk” between the dates 1 January 2018 and 20 December 2018. The relevant information is attached in **Annex A**.

Please note that information has been redacted under the FOIA exemption s.40 – personal information. Further details on the exemptions is provided 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 does not fall within subsection (1), and
(b) the first, second or third condition below is satisfied.*

It is the standard practice of the Legacy Corporation to redact personal information for those members of staff under Head of Service level, and for non-Legacy Corporation personnel 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 s.3(2) of the Data Protection Act 2018.

Information on pages 5 to 7 has been redacted under the FOIA exemption s.43 – commercial interests.

Section 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).

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.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation takes the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process Formans were contacted for their views.

Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption s.43 – commercial interests in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third

party(ies). They have concluded that prejudice to commercial interests would be caused by disclosure so that the exemption is engaged.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the information within Annex A identified as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation and Formans because it will reveal details which would be likely impact on future negotiations and this would impact on the Legacy Corporation's ability to get best value for the public purse.

It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.

Please note that the email correspondence provided in **Annex A** contains opinions and suppositions that are not accurate.

Please note that the attachments named "image001.png" are just the QEOP logo and these have not been included in the response. The attachments on page 15 are the response to FOI 17-066 and this information has not been included in the response as it is available on our website: <https://www.queenelizabetholympicpark.co.uk/our-story/the-legacy-corporation/good-governance/publication-scheme/disclosure-log/2017-foi>

The Legacy Corporation does not record telephone calls. Any details in relation to calls as requested would need to have been noted by the individual and would require additional investigation, examination and verification to uncover, therefore, in line with your request, we have not searched for this information.

If you are unhappy with our response to your request and wish to make a complaint or request an internal 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

Email: FOI@londonlegacy.co.uk

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