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London
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8 September 2020

INTERNAL REVIEW – REFERENCE 20-008IR

Dear 

We refer to your email of 6 April 2020 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

- 1.1. The original request (Ref 20-008) was received on 20 February 2020 and requested that the Legacy Corporation provide information under the Freedom of Information Act 2000 in response to a series of questions as set out below:

In a letter dated 18th February and signed by Jason Eglash, London Stadium 185 Ltd Safety Officer, and sent to a Mr Cameron Robson, reference is made to the following:

"A memorandum of Understanding for the Management of Stadium Banning Protocols between West Ham United (the concessionaire) and London Stadium 185 Ltd (the operator of London Stadium)"

Please can I be provided with this memorandum of Understanding for the Management of Stadium Banning Protocols between West Han United (the concessionaire) and London Stadium 185 Ltd (the operator of London Stadium)

- 1.2. A response was sent on 2 April 2020. A copy is attached in **Annex A** for reference.

- 1.3. Your subsequent email request for an internal review was received on 6 April 2020 and set out the grounds for appeal as follows:

I would like to formally request an internal review of LLDC 20-008 regarding the decision to blanket use s.31 to withhold the requested information.

2. Review findings:

- 2.1. The internal review has now been concluded and the findings and recommendations of the review are set out below.
- 2.2. In the original response, the information within the document was withheld under section 31(1) – law enforcement and section 40(2) – personal information. As requested, the internal review panel (“the Panel”) reviewed the information redacted within the Legacy Corporation’s original response in relation to section 31 – law enforcement. As they were not part of the internal review request, the redactions applied under section 40(2) were not reviewed by the Panel.
- 2.3. As part of the review, the Panel challenged the section 31(1) redactions that were applied by consulting with colleagues within the Legacy Corporation and by contacting the relevant third parties where necessary.
- 2.4. As a result of this exercise the Panel recommended that information within the Stadium Banning Protocols that was previously redacted under section 31(1) be released. In addition, some information that was previously redacted under section 31(1) should be redacted under section 40 – personal information.
- 2.5. 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*
- 2.6. 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.
- 2.7. 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.
- 2.8. 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.

Prejudice to the prevention of crime
- 2.9. The Legacy Corporation has assessed the impact of releasing the information withheld under the exemption s.31(1)(a) – prevention of crime in order to decide whether disclosure would, or would be likely to, prejudice the prevention of crime.

We have concluded that prejudice to the prevention of crime would be caused by disclosing this information so the exemption is engaged.

- 2.10. Given the nature of the information requested, releasing the information where the redaction has been retained will make public information that could compromise the safe running of the football matches at the London Stadium as it details the specific steps that the security teams and the Police would take in dealing with incidents. This information in the public domain has a high probability of being misused and impacting on the security and safety of future football matches held at the Stadium.

Public Interest Test

- 2.11. There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the information requested, currently withheld under s.31(1)(a) and identified as prejudice to the prevention of crime would be likely to prejudice the security of the football matches held at the Stadium.
- 2.12. It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.
- 2.13. 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.
- 2.14. 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. Job titles have been redacted as individuals are identifiable from this information and consent has not been received to release.
- 2.15. 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 3(2) of the Data Protection Act 2018.

3. Panel Recommendations:

- 3.1. The Panel recommend that the Stadium Banning Protocol be released with additional information released. The revised Protocol is attached in **Annex B**.
- 3.2. A redaction schedule showing the release of information is attached in **Annex C**.

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

Deputy Chief Executive
London Legacy Development Corporation