



17 May 2021

INTERNAL REVIEW - REFERENCE 20-027

Dear 

We refer to your email of 10 December 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 20-027) was received on 18 September 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:

"I am sending this request under the Freedom of Information Act, and would like the following information:

- *E20 Stadium LLP's annual report and financial statements for March 2020;*
- *E20 Board Minutes for all meetings after 5 March 2019 (this is because I don't believe minutes for meetings after this date have been published on your website);*
- *Minutes of the Meeting of the London Legacy Development Corporation Audit Committee on 13 July 2020;*
- *All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications) between Richard Irish and Lyn Garner from 1 February 2020 to the present; and between Richard Irish and Nathan Homer from 1 September 2020 to the present; and between Richard Irish and Ash Sharma from 1 February to the present."*

- 1.2. A response was sent on 24 November 2020. The response letter is attached in **Annex A**.
- 1.3. Your subsequent email request for an internal review was received on 10 December 2020 setting out the grounds for appeal as follows:

“Thank you for the response to my FOI of 18 September and for the reasoning you and your team set out. I’m sure it took a long while to sort through, and I appreciate the efforts you’ve gone to in explaining your thinking.

That said, I note that much of the information I requested is redacted, either under S.40 or S.43. Clearly the S.40 justifications are absolutely fine, and I was expecting that. However, I’d like to seek an internal review over your S.43 justifications. This has resulted in about 90% of the information being redacted.”

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. As requested, the internal review panel (“the Panel”) reviewed the information redacted from the Legacy Corporation’s original response in relation to Section 43(2) – Commercial Interests.
- 2.3. In the original response the FOI exception section 43 – commercial interests was applied to the fourth and sixth requests in relation to:

All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications):

between Richard Irish and Lyn Garner from 1 February 2020 to the present (18 September 2020); and

between Richard Irish and Ash Sharma from 1 February to the present (18 September 2020).
- 2.4. With consideration of the above, the Panel undertook a full review of the redactions applied under s.43(2) commercial interests to both of these responses only, taking an independent view on whether the redacted information met the prejudice test set out in the Freedom of Information Act.
- 2.5. In the original response, the majority of the attachments were withheld under section 43. These attachments have been inserted into the document bundles and included within the review.
- 2.6. As part of the review, the Panel challenged some of the redactions that were applied by consulting with colleagues within the Legacy Corporation and also by contacting the relevant third parties where necessary.
- 2.7. In addition to the above, the information redacted under the commercially sensitive exemption at the time of the original request was reviewed to assess if the passage of time had lessened the commercial sensitivity to the point where the public interest to disclose the information outweighs the public interest in

withholding it.

- 2.8. As a result of this exercise the Panel recommend that additional information should now be released or partially released in particular due to the passage of time. The Panel are satisfied that the remainder of the redactions meet the prejudice test and should remain withheld under s.43(2) commercial interests because it would be likely to prejudice the commercial interests of the Legacy Corporation, E20 or LS185 because it would be likely to impact on current and future procurement activity being undertaken, which in turn would harm LS185's, E20's and the Legacy Corporation's ability to achieve best value for the public purse.
- 2.9. Please note that some information has been withheld under 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.

- 2.10. 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.
- 2.11. 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.
- 2.12. 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

- 2.13. 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.

Public Interest Test

- 2.14. 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 Stadium because it will reveal details which would reveal sensitive financial controls arrangements and operations as well as sensitive details in relation to the financial system.

- 2.15. It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.
- 2.16. Please note that two attachments in the Annex C mentioned on page 1 have not been provided because they are already in the public domain. Please see the minutes and papers for the Legacy Corporation Audit Committee of March 2020.
- 2.17. Please note that any attachments with the file extension *.png have not been included as these are just QEOP logos, etc automatically linked to the emails.

3. Panel Recommendations:

- 3.1. The Panel recommend that the information as requested in the original request, identified below, be released with the revised redactions.

Please find attached:

- 3.2. **Annex B:** All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications) between Richard Irish and Lyn Garner from 1 February 2020 to the present (18 September 2020).
- 3.3. **Annex C:** All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications) between Richard Irish and Ash Sharma from 1 February to the present (18 September 2020).
- 3.4. A redaction schedule for Annex B is attached in **Annex D**.
- 3.5. A redaction schedule for Annex C is attached in **Annex E**.

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