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24 March 2025

INTERNAL REVIEW – REFERENCE 25-002IR

We refer to your email of 10 February 2025, where you requested an internal review under the Freedom of Information Act 2000 (FOIA). This regards the response you received from London Legacy Development Corporation (LLDC) in relation to your information request referenced 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 25-002) was received on 13 January 2025 and requested that LLDC provide information under the Freedom of Information Act 2000 in response to a series of questions as set out below:

Under the Freedom of Information Act I would like to request:

Any recorded information on the decision-making process followed when your organisation developed its hybrid working policy and any documents relating to its development and approval by the senior leadership team of your organisation.

- 1.2. Clarification was subsequently requested by LLDC:

...as our response to your earlier request explains (ref 24-037) the LLDC do not have a Hybrid Working Policy and we therefore do not hold the information that you have requested. Please can you clarify your request?

- 1.3. Your clarification was received by LLDC on 14 January 2025:

To clarify under the Freedom of Information Act does your organisation hold any recorded information on the decision-making process followed when your organisation developed its hybrid working principles and any documents relating to these principles' development and approval by the senior leadership team of your organisation?

Just to add..., the scope of this request should include but is not limited to any relevant notes or meeting minutes.

As you will be aware, recorded information in the FOI Act has a very broad meaning. You may find for example in your search for recorded information held that there may be emails or written documents on your organization's hybrid working principles.

- 1.4. LLDC's response was sent to you on 10 February 2025 and is attached in **Annex A** for reference.
- 1.5. You subsequently requested an internal review via email, which was received by LLDC on 10 February 2025, setting out the grounds for appeal as follows:

I request an internal review on the following basis:

- 1. In respect to section 12 you have not in accordance with ICO guidance shown how my request exceeds the appropriate limit. You need to show a detailed calculation.*
- 2. Section 40(2) is subject to a public interest test. Your response does not show you performing a public interest test in respect to the in scope personal data.*

With additional clarification provided:

I have had a better opportunity to look at the material provided under this response. In relation to the names redacted I would also add that under ICO guidance if any of the individuals are in senior positions it is far more reasonable to disclose their names without their consent when balancing the arguments for and against in the public interest test. Please see below:

https://ico.org.uk/media2/migrated/1187/section_40_requests_for_personal_data_about_employees.pdf

In relation to the section 12 exemption and the requirement to give an estimate please see this ICO guidance.

Please see page in the ICO guidance I sent you on names in documents.

I hope you found the guidance I sent yesterday on the names of senior employees helpful in considering my internal review request in relation to your application of the section 40(2) exemption.

2. Review findings:

2.1. The findings of the internal review are as follows:

- The response sufficiently explained the Section 12 exemption, the details of the appropriate limit and the number of items identified in the search results; however, it did not provide a detailed calculation. This is now corrected and the detailed calculation for the application of the cost exemption is as follows:
 - The searches run for the original request 25-002 identified over 84,000 items in the results. Only time taken to establish if the information held, locating, retrieving and extracting the information can be considered when calculating the estimated costs.
 - An estimated time of 2 hours was taken to run the reports. An estimate of 30 seconds per item was considered reasonable to review the relevance of each item. This is a standard assessment that LLDC has previously used. Based on the 84,000 items the 30 seconds was applied and this extrapolation determined that it would take over 42,000 minutes to review all the search results to identify if the information was held and where any relevant information was located. This is 700 hours. The total figure at this stage was 702 hours.

- This calculation far exceeded the 18 hours considered under the Appropriate Limit, hence the refusal because of costs. The further time taken to retrieve and extract the information once the relevant information was identified and located was not included in the calculation as it was not possible at this stage to estimate how much information that would represent, and the threshold was already exceeded by a substantial amount of time.
- As referenced in the original response, the time and resources taken to answer the request would have a considerable impact on LLDC's limited resources and, as such, LLDC cannot justify the disproportionate burden this request would place on those resources or the impact it would have on delivery of its other responsibilities.
- In regard to the Section 40 complaint, please be advised that the Section 40 exemption is absolute and is NOT subject to the public interest test. In this case the refusal to provide personal information under Section 40(2) – personal information was correct.
- In addition, as stated in the response, it is standard practice for LLDC to release the names of employees Head of Service level and above. If the employee is below this level, is not in a public facing role and has not consented to their name being made public then LLDC do not release it.
- To further clarify this, all the Section 40 redactions applied within the documents attached to the original response are in relation to one person, who is below the Head of Service level, does not have a public facing role and, at the time of the original request, had not given consent to their name being made public. They no longer work for LLDC but have been contacted and have given consent for their name to be released. Please find attached in **Annex B to I** the annexes from the original response with the Section 40 redactions removed.

3. Recommendation:

- 3.1. When a response is refused on the basis that it exceeds the appropriate cost limit, LLDC will include the calculations that led to the application of this exemption.

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

Chief Operating Officer
London Legacy Development Corporation