



Our Reference:

BY EMAIL ONLY

1 February 2016

Dear

**Request for Information**

Thank you for your email dated 6 January 2016 requesting information on the Leybourne Riding Stables. For ease of reference your request is below.

*“Under the freedom of information act could you please tell me how long a lease the leybourne riding stables have on the hca land. I have been told that it is a 25 year lease and this allows them to ride through the development and cause damage to the pathways which the residents are expected to pay the up keep for.  
Can tell me the length of time of there lease and provide me a copy of it electronically please as this is public land.”*

We have now had an opportunity to investigate your request and are writing to communicate our response. Firstly, we can confirm that the lease in question is for 25 years. You also ask for an electronic copy of the lease, which is attached to this letter with minor redactions made. The rent amount has been redacted as the release of the terms agreed has the potential to harm the commercial interests of the Homes and Communities Agency (HCA) and so has been withheld under section 43(2) of the Freedom of Information Act 2000.

**Section 43(2) – Prejudice to commercial interests**

Section 43(2) of the Act permits a public authority to withhold information where disclosure “would, or would be likely to, prejudice the commercial interests of any party,” including the public authority holding the information.

The agreed rental costs of this land, if released, would have the potential to prejudice the commercial interests of the HCA in relation to our ability to negotiate leases of similar land in the future by revealing the HCA’s internal valuation of the land and the terms on which the HCA agree to lease this land. This information could be used as an unfair advantage by third parties when negotiating with the HCA on similar transactions. This would hinder the HCA’s negotiating ability and thus damage the HCA’s commercial interests. Section 43 of FOIA requires a Public Interest Test to be carried in order to see where the weight of

arguments lies in relation to disclosure of the information. Below, we have provided you with arguments both for and against disclosure.

**Public Interest Test – Factors in favour of disclosure**

Disclosure of the requested information would help demonstrate HCA's commitment to the principles of transparency and accountability.

Disclosing information helps further the public scrutiny of the activities and management of the HCA. This helps to serve the public interest by enabling interested individuals to be fully empowered of all the facts when considering the activities of HCA.

**Public Interest Test – Factors in favour of non-disclosure**

It is not in the public interest to limit the HCA's ability to compete in a commercial setting by releasing information as the result of an FOIA request when it is seeking to achieve best value for the public purse.

Disclosure of the information would be likely to affect the HCA's ability to operate effectively in a competitive market as it would disclose our position with regards to the negotiation process and the agreements we accept. If this were to be released it would diminish our ability to achieve best value for money as any third party wishing to enter into a future transaction with us may base their negotiations on the information contained within the withheld information.

Taking these factors into consideration, we therefore have decided that in this instance the balance of public interest falls in favour of non-disclosure at this time. However, the concept of public interest is ever changing and the arguments may change over time.

If you have any questions regarding this response or any further queries you can contact us at the following addresses and quote your unique reference number found at the top of this letter:

**Email:** [mail@homesandcommunities.co.uk](mailto:mail@homesandcommunities.co.uk)

**Mail:** Information Access Officer  
Homes and Communities Agency  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

If you are unhappy with the way Homes and Communities Agency has handled your request you may ask for an internal review. You should contact

Head of Legal Services  
Homes and Communities Agency  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

Homes and Communities Agency  
Fry Building, 2 Marsham Street, London, SW1P 4DF

0300 1234 500  
[homesandcommunities.co.uk](http://homesandcommunities.co.uk)

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Online: <https://ico.org.uk/concerns/getting/>

Yours sincerely

Naomi McMaster  
Information Access Officer  
Homes and Communities Agency