



Our Reference:

**BY EMAIL ONLY**

14 September 2015

Dear

**Request for Information**

We received a request for information from you regarding Transfer Schedules held by the Homes and Communities Agency (HCA). For ease of reference your request is below:

*We hereby request copies (either electronic or hard copy) of the following documents:*

- *Schedules 4A, 4B, 4C and 4E to the 2008 Scheme; and*
- *Schedules 2 and 3 to the 2012 Scheme.*

In your request you have stated you wish to see schedules 4A, B, C and E of the 2008 Urban Regeneration Agency (URA) Transfer. However our files are not labelled in this way. We have performed searches of LexisLibrary, the National Archives and Google and can find no other reference to the schedules being referenced in this way. Therefore we have provided you with all the schedules we have for the transfer.

In relation to the 2012 Greater London Authority (GLA) Transfer we have provided you with the schedules specified.

Whilst we have been able to make a large amount of the information available to you, some of the information has been withheld under Sections 43(2) and 40(2) of the Freedom of Information Act 2000.

**Section 43(2)**

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 HCA determines that harm would arise from disclosure of the descriptions of the contracts/agreements as it would compromise the interests of all third parties involved in each one. It would impact upon their ability to operate effectively and competitively within the marketplace as it would give competitors the advantage in contract

negotiations with the GLA. We have concluded that Section 43(2) is engaged. As Section 43(2) is a qualified exemption, this means a Public Interest Test is required in order for it to be maintained. A Public Interest test involves balancing the weight of arguments for and against disclosure.

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

Disclosure would also assist the public in understanding the HCA's position and gain an insight as to why certain decisions have been made or actions considered. This again helps to assist the public in informed debate around current and future projects, sites and developments.

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

The HCA needs to be mindful that such disclosures do not adversely affect third parties ability to achieve their operational objectives. Similarly we need to be aware that disclosures could discourage third parties from working closely with us in the future.

Disclosure of the information would be likely to affect GLA's ability to negotiate terms with potential developers, and other contractors, when entering into agreements. Each contract/agreement had specific clauses made for that transaction only and should these be disclosed it would give potential contractors the ability to negotiate on those terms, rather than on the merit of the new contract. This would diminish GLA'S ability to get best value for the public purse as well as the best conditions for the contract. It would not be in the public interest to affect a Public Authority in this way.

Some information in the URA transfer schedules has been withheld as it would reveal the HCA's valuation of legal costs. This would affect us commercially as people entering into litigation with us could base any valuations on those found in these schedules, meaning we would not achieve best value for money.

We have, therefore, concluded that the balance of the public interest favours non-disclosure of this information at this time. We would, however, stress that the public interest is as ever changing concept and the arguments may change over time.

In Part 4 of Schedule 3 of the GLA Transfer the information was identified as the personal data of third parties and has therefore been withheld.

#### **Section 40(2) – Personal Data of a third party**

Section 40(2) of the Act permits a public authority to withhold information where disclosure would be in breach of any of the Principles of the Data Protection Act. Disclosure of certain information within the documents would be likely to breach the First Data Protection Principle, as it would exceed the Data Subjects' expectations as to how their information would be processed. This exemption is absolute and therefore no public interest test needs to be carried out to apply the exemption.

Although disclosure under FOIA is motive blind you have made us aware of the reasons you seek this information. We determine that the redactions made should not hinder your ability

to identify which assets and liabilities were transferred to the HCA under the URA transfer and subsequently to the GLA under the 2012 Transfer Scheme.

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

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

Yours sincerely

Naomi McMaster  
Information Access Officer  
Homes and Communities Agency