

GREATER LONDON AUTHORITY

By email

Our Ref: MGLA180117-9959

15 February 2017

Dear [REDACTED]

Thank you for your request for information which the GLA received on 18 January 2017. Your request has been dealt with under the Environmental Information Regulations 2004.

You asked for:

"A list of all non GLA/TFL individuals who have met with the mayor's chief of staff David Bellamy to discuss the Garden Bridge since the election of mayor Sadiq Khan

Alongside the names of these individuals, please provide the dates of all meetings involving Mr Bellamy and minutes if available."

Please find attached the list of meetings that have taken place from May 2016 until 18 January 2017. This includes one meeting on to which Mr Bellamy was invited, but which he was unable to attend.

Although we hold copies of minutes taken at two of these meetings, we have decided these are exempt from our duty to release the information under the exception provision found at regulation 12(5)(e) or the EIR because they detail continuing commercial negotiations.

If you have any further questions relating to this matter, please contact me, quoting the reference at the top of this letter.

Yours sincerely,

Ruth Phillips
Information Governance Officer

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints and internal review procedure, available at:

<https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>

Exception provisions
<i>Regulation 12(5)(e) - Confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest</i>
How the exception applies to this information
<p>Regulation 12(5)(e) is engaged to protect legitimate economic interests underlying commercial confidentiality. The exception can be broken down into a four-stage test whereby all four elements are required in order for the exception to be engaged:</p> <ul style="list-style-type: none"> - The information is commercial or industrial in nature. - Confidentiality is required by law. - The confidentiality is protecting a legitimate economic interest. - The confidentiality will be adversely affected by disclosure <p><u>Is the information commercial or industrial in nature?</u></p> <p>The minutes of meetings between GLA and other parties regarding the Garden Bridge contain discussions regarding the development of the commercial offer between the GLA, TfL, Garden Bridge Trust (GBT), the London Borough of Lambeth, and Coin Street Community Builders (CSCB) in respect to the Garden Bridge. The information is therefore commercial in nature.</p> <p><u>Is the information confidential under either the common law of confidence, contract, or a statutory bar?</u></p> <p>The information was provided to the GLA under a duty of confidence and under an explicit condition it should not be widely accessed, circulated or distributed. The information itself is not trivial in nature, has the necessary qualities of confidence, and was provided as part of a process whereby all parties understood and expected the information would be held in confidence and treated in a confidential manner.</p> <p>In considering this exception, we have taken note of a decision by the Information Tribunal (EA/2013/0162), in particular paragraph 42 which states:</p> <p><i>‘The legislature must be taken to intend that it is not always in the public interest for a public authority to choose to keep information confidential. There is no breach of trust when a public authority fulfils its statutory obligation under FoIA or EIR... They recognise in contracts that in an individual case, depending on the circumstances, the public authority may have a duty to disclose.’(1)</i></p> <p>However, in this case and at this time, we have decided that some information is protected by a legitimate obligation of confidence.</p> <p><u>Is the confidentiality protecting a legitimate economic interest?</u></p> <p>Disclosure of this information at this time would adversely affect the commercial interests of the GBT, LB Lambeth, CSCB, TfL and the GLA; interests which the conditions of confidentiality were applied to protect. In relation to the legitimate economic interests, we would make reference to the Information Commissioner’s guidance, which states:</p> <p><i>‘Legitimate economic interests could relate to retaining or improving market position, ensuring that competitors do not gain access to commercially valuable information, protecting a commercial bargaining position in the context of existing or future negotiations, avoiding commercially significant reputational damage, or avoiding disclosures which would otherwise result in a loss of revenue or income’ (2)</i></p> <p>The information covered by this exception details continuing commercial negotiation between the involved parties - the GLA, TfL, GBT, Lambeth, and CSCB</p> <p><u>The confidentiality will be adversely affected by disclosure</u></p> <p>The release of the information covered by this exception would jeopardise and prejudice ongoing negotiations regarding the Garden Bridge and the commercial positioning of parties, potentially delaying the implementation of the proposed development.</p> <p>We therefore consider that the legitimate economic interests in this matter mirror the description provided in the Commissioner’s guidance and that those commercial interests could be harmed or</p>

prejudiced by the release of the specific information covered by this request. Disclosure of truly confidential information into the public domain would inevitably harm the confidential nature of that information by making it publicly available, and would also harm the legitimate economic interests that have already been identified.

Public Interest Test

In relying on these EIR exception provisions under regulations, the GLA is required to balance the public interest in order to decide whether the information should be withheld.

Under regulation 12(1)(b), the public authority can only withhold the information if, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. Furthermore, under regulation 12(2), it must apply a presumption in favour of disclosure.

There is a strong public interest in the release of information that would inform and engage public debate on issues pertinent to the Garden Bridge. The release of the information covered by this exception would also therefore help reassure the public that we are considering the most appropriate options and advice regarding the project.

There is a general public interest in transparency in relation to planning and development matters, particularly in the decision making behind, and progress of, developments of this size and impact. Disclosure of this information would enable the community affected by the development to understand more fully the decision making process.

Furthermore, the public interest is served by the GLA being transparent and open to scrutiny to increase diligence.

Effective policy and decision making should be informed by engaging with the public and key stakeholders; however this engagement needs to be structured to be effective. Release of this information at this time would divert attention and resources away from the task at hand and towards responding to external thoughts whilst discussions are still ongoing. This in turn would also be likely to have an adverse effect on the GLA's ability to engage in free-flowing and honest exchanges of views in the future as it is likely that officials would become reluctant to explore all options - including unpopular or unlikely ideas - for fear of disclosure and negative publicity.

The best interests of the public - i.e. the public interest - is best served by ensuring that public authorities continue to deliberate robustly and comprehensively, considering all options and their potential impacts, in order for the best possible decisions to be taken.

There is an inbuilt public interest in maintaining commercial confidences. As discussed in the aforementioned Information Tribunal decision (EA/2013/0162), the courts have recognised the enduring strength of the public interest in maintaining the confidentiality of negotiations and bidding that take place in relation to public/private sector partnerships.

The best interests of the public are met by the GLA being able to foster relationships of trust with its partners, through which the sharing of confidential, sensitive commercial information can be shared to support the development of projects such as the Garden Bridge.

Publishing sensitive financial information shared with the GLA under an expectation of confidentiality would deter these partners from sharing similar information with GLA in the future, particularly if they felt that the GLA would not treat information that could harm their economic interests with due care. This would ultimately hinder the ability of the GLA to deliver its stated objectives for London.

1

<http://www.informationtribunal.gov.uk/DBFiles/Decision/i1279/London%20Borough%20of%20Southwark%20EA.2013.0162%20%2809.05.14%29.pdf>

2

https://ico.org.uk/media/for-organisations/documents/1624/eir_confidentiality_of_commercial_or_industrial_information.pdf

10 th June 2016	Meeting to discuss Lambeth issues, including discussion on Garden Bridge	Cllr Lib Peck , Lambeth Council
16 th June 2016	Lambeth/Coin St/Garden Bridge meeting	Bee Emmott , Garden Bridge Trust John Heaps , Garden Bridge Trust Sean Harriss , Lambeth Council Iain Tuckett , Coin Street Community Builders
24 th June 2016	Lambeth/Coin St/Garden Bridge meeting <i>David was scheduled to attend this meeting but had to send his apologies.</i>	Bee Emmott , Garden Bridge Trust Cllr Lib Peck , Lambeth Council Sean Harriss , Lambeth Council Iain Tuckett , Coin Street Community Builders John Heaps , Garden Bridge Trust Alistair Subba Row , Garden Bridge Trust
20 th July 2016	Lambeth/Coin St/Garden Bridge Meeting	Bee Emmott , Garden Bridge Trust Cllr Lib Peck , Lambeth Council Sean Harriss , Lambeth Council Iain Tuckett , Coin Street Community Builders John Heaps , Garden Bridge Trust Alistair Subba Row , Garden Bridge Trust
25 th July 2016	Meeting with Garden Bridge Trust	Lord Davies , Garden Bridge Trust Bee Emmott , Garden Bridge Trust