

Mr Dragutin Popovic

BY EMAIL  
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Direct Line: 020 8545 3470  
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My Ref: CS/LEG/CW/GB/2590/8  
Your Ref:

Date: 3<sup>rd</sup> April 2017

Dear Mr Popovic

**FOI Request – Request on the Council's purchase of "repossessed" properties**  
**Review of Response**

I have been requested by the London Borough of Wandsworth Council to carry out a review of the response you received on 9<sup>th</sup> February 2017 [11:47] to your request of 9<sup>th</sup> December 2016 [20:25].

On 9<sup>th</sup> December 2016 [20:25], you requested:

1. The reasons why the information provided by Kirsten Hawkins contradicts the information provided by Sue Murray?
2. The full name of the council's "strong" policies on acquiring property (repossessed or any other)?
3. The exact date the "strong" policies on acquiring property (repossessed or any other) have been approved by the committees?
4. The full name of the council's committees including the full names of the chairman's of those committees who approved payments of £350,000 and £640,000 amounts?
5. The exact date the "strong" policies on acquiring property (repossessed or any other) have been authorised by the Executive of the Executive?
6. The exact date the Executive of the Executive has authorised payments of £350,000 and £640,000 amounts?
7. The full name of the conveyancing solicitors who have been instructed by the council's Executive to purchase 68 Harbridge Avenue and 21 Wye Street?
8. The exact date the council's Executive made an offer to purchase 68 Harbridge Avenue and 21 Wye Street?
9. The full name of a person or an institution to whom the council's Executive has paid £350,000 and £640,000 amounts?
10. The full name of the council's officer who made payments of £350,000 and £640,000 amounts on behalf of the council's Executive?
10. The full name of the account, its number and sort code that belongs to the council's Executive, that is used to make the payment of £350,000 and £640,000 amounts?

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Paul Evans

Assistant Director of Corporate Governance London Borough of Merton

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12. The full name of the bank the account that belongs to the council's Executive, from which the payment of £350,000 and £640,000 amounts is held with?

13. The reasons why the council's Executive does not have the register of acquired properties (repossessed or any other)?

On 9<sup>th</sup> February 2017 [11:47], you received the Council's response, which was as follows:

I refer to your request for information received on 12/12/2016. Please see the information below in response to your request: -

1. The reasons why the information provided by Kirsten Hawkins contradicts the information provided by Sue Murray?

*The FOI team was provided with different information for the different requests. The most recent response corrected some of the information previously provided.*

2. The full name of the council's "strong" policies on acquiring property (repossessed or any other)?

*See the attached report.*

3. The exact date the "strong" policies on acquiring property (repossessed or any other) have been approved by the committees?

*This is delegated to officers by virtue of the attached report*

4. The full name of the council's committees including the full names of the chairman's of those committees who approved payments of £350,000 and £640,000 amounts?

*Payments were approved by Tunde Ogbe, Head of Valuation and Asset Management Services who acted in line with authorities/delegations. The approval of these payments were not decided by the Chairman/Executive.*

5. The exact date the "strong" policies on acquiring property (repossessed or any other) have been authorised by the Executive of the Executive?

*See the attached report.*

6. The exact date the Executive of the Executive has authorised payments of £350,000 and £640,000 amounts?

*The acquisition of 68 Harbridge completed on 27th July 2016 and 21 Wye Street completed on 3rd March 2016. As mentioned in Q4, the approval of these payments were not decided by the Chairman/Executive.*

7. The full name of the conveyancing solicitors who have been instructed by the council's Executive to purchase 68 Harbridge Avenue and 21 Wye Street?

*The conveyancing was handled by WBCs in-house legal team.*

8. The exact date the council's Executive made an offer to purchase 68 Harbridge Avenue and 21 Wye Street?

*Offers were made on 3rd June 2016 and 3rd March 2016 respectively.*

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The full name of a person or an institution to whom the council's Executive has paid £350,000 and £640,000 amounts?

*Under Section 21 of the Freedom of Information Act 2000, the Council is under no obligation to provide a copy of the requested information if that information is reasonably accessible to the applicant by other means.*

*This is available at the Land Registry via the link below <https://www.gov.uk/search-property-information-land-registry>*

9. The full name of the council's officer who made payments of £350,000 and £640,000 amounts on behalf of the council's Executive?

*The payments were made by WBCs in-house legal team.*

10. The full name of the account, its number and sort code that belongs to the council's Executive, that is used to make the payment of £350,000 and £640,000 amounts?

*There is not a specific bank account for the Council's Executive. The account used is in the link below:*

[http://www.wandsworth.gov.uk/info/200361/pay\\_a\\_bill/382/pay\\_your\\_bill\\_to\\_the\\_income\\_collection\\_service](http://www.wandsworth.gov.uk/info/200361/pay_a_bill/382/pay_your_bill_to_the_income_collection_service)

11. The full name of the bank the account that belongs to the council's Executive, from which the payment of £350,000 and £640,000 amounts is held with?

*See answer to Q10.*

12. The reasons why the council's Executive does not have the register of acquired properties (repossessed or any other)?

*The Council does hold information regarding its acquired properties, however a specific 'register' is not held.*

This followed a response to a request made on 7<sup>th</sup> November 2016 [18.36] by you as follows:

1. Provide the amount paid for each property by the Council's officials and the date the amount was paid by the Council's officials for each property?
2. Provide full name of the Council's officials who authorised the payments for each property?
3. Provide the date and the place where the Auctions were held?
4. Provide full name of the Auctioneers?
5. Provide full name of the Council's officials who attended the Auctions?
6. Provide the reasons for purchasing the properties by the Council's officials when the Council has no policies on acquiring properties (commercial or residential) that have been repossessed?

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Paul Evans

Assistant Director of Corporate Governance London Borough of Merton

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On 2<sup>nd</sup> December 2017 [08.35] you received a response to that request, as follows:

I refer to your request for information received on 08/11/2016. Please see the information below in response to your request: -

1. Provide the amount paid for each property by the Council's officials and the date the amount was paid by the Council's officials for each property?

*£350,000 and £640,000*

2. Provide full name of the Council's officials who authorised the payments for each property?

*No individual is responsible for authorising payments. These are subject to committee or delegated authority as per item 6 below*

3. Provide the date and the place where the Auctions were held?

*N/a.*

4. Provide full name of the Auctioneers?

*68 Harbridge Avenue = Andrews (Putney) 21 Wye Street = Barnard Marcus (Hammersmith)*

*I am aware that you have previously been informed (under reference 2016/13809) that these properties were purchased at auction. Further to this request it has now been confirmed that both properties were purchased by private treaty. 21 Wye Street went to auction and failed to sell prior to the auction dated 15th December 2015. The sale of 68 Harbridge Avenue was agreed simply via private treaty.*

5. Provide full name of the Council's officials who attended the Auctions?

*N/a.*

6. Provide the reasons for purchasing the properties by the Council's officials when the Council has no policies on acquiring properties (commercial or residential) that have been repossessed?

*The Council has a number of strong policies on acquiring property (repossessed or any other) given the strong commitment to Housing and regeneration within the Borough. These policies are authorised via committee papers authorised by the Executive.*

On 23 February 2017 [10:02], you emailed Wandsworth's FOITeam asking for a review of this decision. You stated:

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Wandsworth Borough Council's handling of my FOI request 'Purchased "repossessed" properties'.

The information provided is contradicting, misleading, misrepresenting the facts in an attempt to cover unlawful activities of the Council and its senior executive officers.

You have not provided the authority (lawful documents) by what the Council and its senior executive officers have acted in this matter.

You are wilfully and knowingly failing to provide the requested information.

Paul Evans

Assistant Director of Corporate Governance London Borough of Merton

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In carrying out this review, I have contacted Wandsworth's FOI Team and the Housing and Regeneration Directorate to consider the disclosure provided and sought.

Firstly, in carrying out this review, I have assessed whether the specific responses to your specific requests meet the requirements of your FOI requests. I consider that they do.

Secondly, I have considered the allegations made in your email of 23<sup>rd</sup> February 2017 [10:02], in which you allege that "the information provided is contradicting, misleading, misrepresenting the facts in an attempt to cover unlawful activities of the Council and its senior executive officers...You have not provided the authority (lawful documents) by which the Council and its senior executive officers have acted in this matter...You are wilfully and knowingly failing to provide the requested information". I have looked at each allegation made:

1. Allegation: "information provided is contradicting, misleading, misrepresenting the facts in an attempt to cover unlawful activities of the Council and its senior executive officers":

The only potentially contradicting response was in relation to how the response of Kirsten Hawkins conflicted with that of Sue Murray. It was clear that the difference arose because it was thought that the purchases were both arising from auctions, but it transpired that the sales did not take place at auction because the properties failed to sell and subsequently the Council was able to purchase by private treaty. The difference between what Ms Murray and Mrs Hawkins confirmed is irrelevant as the Council still purchased both properties. Therefore, I am content that, there is no contradiction, that you have not been misled, and there has been no attempt to misrepresent the facts to you. A property purchase has taken place at a value that the seller/your former lender offered, that the Council accepted. Any failure in that respect is between you and your lender.

2. Allegation: "You have not provided the authority (lawful documents) by which the Council and its senior executive officers have acted in this matter

The properties are registered at HM Land Registry, as is the case with all freehold and leasehold land titles in the UK. You can apply to them for a copy of that title to check that information. The Council is not required to furnish you with such information, as you can seek it direct from HM Land Registry.

3. You are wilfully and knowingly failing to provide the requested information

There is nothing in the paperwork provided or the responses provided to show that any document has been withheld or not provided to you. Much of the documentation can easily be located through the Council's website or direct with HM Land Registry.

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Assistant Director of Corporate Governance London Borough of Merton

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South London Legal Partnership

I understand that the position is that your property was repossessed by your lender and was subsequently sold to the Council. The Council purchased these repossessed properties, as it has dire housing needs and continuing homelessness responsibilities to address, and its policy on such purchases was set out within the 6<sup>th</sup> July 2016 Housing and Regeneration Overview and Scrutiny Committee, the 7<sup>th</sup> July 2016 Finance and Corporate Resources Overview and Scrutiny Committee and the 11<sup>th</sup> July 2016 Executive Committee Reports.

The Council purchased these properties without knowing the circumstances of the repossession on the basis that the purchase was from the lender with title to sell. If you have any concern that your lender did not act in good faith, or did not take reasonable steps to obtain a proper price or best price reasonably obtainable, or acted without reasonable care and skill or acted unfairly towards you as a borrower, then your only recourse is to claim against your lender. As long as the lender complies with these duties, a court will not interfere in the sale merely because its borrower objects. As far as the Council is concerned, it bought the properties in good faith and so any claim you may have is with your lender (or possibly any liquidator or administrator or LPA Receiver for breach of duty) and not the Council. We strongly suggest that you take independent legal advice in this regard should that be the case.

The local authority believes it complied with your specific request in full. No documents, held on the file you referred to, were held back. We therefore believe that all information that falls within the scope of your request, as worded by you, has been provided.

I would like to emphasise that the local authority has endeavoured to deal with your request properly. We believe you have been supplied with what you asked for in your request or an explanation of why it is not available.

If you are dissatisfied with my decision, then you may take the matter to the Information Commissioner's Office at:

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF  
Fax: 01625 524 510  
<https://ico.org.uk>

Yours faithfully

A handwritten signature in purple ink, appearing to read 'Paul Evans', is written over a light blue horizontal line.

for Assistant Director Corporate Governance  
E-mail: [guy.bishop@merton.gov.uk](mailto:guy.bishop@merton.gov.uk)

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Paul Evans

Assistant Director of Corporate Governance London Borough of Merton

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