

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 16 September 2015

**Public Authority:** Halton Borough Council  
**Address:** Municipal Building  
Kingsway  
Widnes  
WA8 7QF

**Decision (including any steps ordered)**

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1. The complainant has requested a summary of the financing for the Merseygateway project year by year. He provided the council with figures (in the form of a table) which he had obtained from the council previously and asked the council to complete 2 fields entitled 'Toll Income' and 'Surplus to Council'. The council completed the fields and disclosed the information to the complainant. The complainant however wrote back to the council and said that the disclosed figures did not match with the figures he had obtained from the council previously in response to an earlier request. The council gave a brief response explaining that the difference was made up of the cost of the discount scheme, other project costs and service subsidy. It did not however provide any further information to demonstrate this. The complainant therefore argues that the council has failed to provide him with the information which he asked for.
2. The Commissioner's decision is that, on an objective reading of the request, the council has complied with the requirements of the Regulations in that it provided the complainant with the information which he had requested.
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 22 December 2015, the complainant wrote to council and requested the following information:

*"an overall summary of the scheme finances, year by year"*

He clarified this further by stating:

*"More specifically the information that we want year by year for the life of the contract is the amount of the Unitary charge, the amount of Government grant, the amount of tolls income (net of any discount to residents), and the balance i.e. the surplus that will go to the Council. You have of course already given us the figures for the unitary charge and for the grant, but I mention these as we obviously need all of the four figures for each year to be consistent."*

5. The council responded on 13 January 2015 by disclosing the completed 'Toll Income' and the 'Surplus to Council' fields to the complainant.
6. The complainant then wrote back to the council stating that the figures which had been provided did not match with the figures he had provided to it. He asked the council to explain why this was the case.
7. The council wrote to the complainant on 19 March 2015. It said that the difference was made up of the cost of the discount scheme, other project costs and service subsidy. It did not however provide any further detail on this as it argued that the initial response fulfilled the terms of the request.
8. Following the Commissioner's intervention the council wrote to the complainant again in July 2015 and provided further information. It provided the complainant with additional information on the financial figures, together with further explanatory information which would help him to understand the figures which had been provided. However the complainant still does not consider that the disclosed information matches the figures he had been provided with previously and so still does not believe that the council has fully responded to his request.

## Scope of the case

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9. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He considers that the council has failed to provide him with the information which he has asked for in that it has failed to fully explain why the figures which were

disclosed to him do not match with the figures which he had been provided with previously. He considers that the council's failure to fully explain the differences and to provide him with the information to demonstrate this is a breach of the Regulations.

10. The Commissioner firstly notes that the complainant's request for an explanation as to why the figures do not match does not fall within the rights provided by the Regulations. The Regulations provide a requestor with the right to request recorded information. They do not provide the right to ask an authority to explain its position, nor to receive answers to direct questions. Having said this, where recorded information is held by an authority which can answer a question asked then the authority should consider it for disclosure to the complainant in response to the question.
11. The Commissioner also notes that the complainant requested a summary of the information. He did not request copies of the actual documents held by the council. To this extent the council argues that its response has fully met with the terms of the request, particularly as the complainant himself provided the specific fields which he wished the council to complete. The fields have been completed and provided to the complainant as requested, and overall, provide a summary of the finances year by year as requested.
12. Whilst the complainant may not understand why the information does not correlate with the information which he was provided with previously, if the disclosed information is a copy of the information which the council held at the time of the request then the council has complied with the requirements of the Regulations. It is not obliged to provide an explanation of the differences to the complainant or to provide further information which would explain those differences to him. The request was specifically for the table to be completed.
13. Nevertheless after the Commissioner explained the complainant's issues to the council and asked for it to review its response again, the council provided further explanatory information to the complainant with the intention of aiding him in understanding the figures which had been disclosed. The complainant however informed the Commissioner that he considers that the further information simply confuses the issue further and does not explain the differences he has highlighted.
14. The council has also offered to meet with the complainant to answer any questions he wishes to ask, to determine exactly what information he wishes both from this request and others he might wish to make, and to aid in responding to the requests whilst causing as little burden on the council as possible. Its hope is to seek to resolve as many issues as possible within one meeting to avoid further requests having to be

made. The complainant however believes that his request is clear without further information and therefore does not agree to the need for a meeting.

## **Reasons for decision**

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### Regulation 5

15. The council argues that by disclosing the information which completed those fields it has fully responded to the complainant's request. It argues that in providing the information to complete the relevant fields it has responded to the request and provided a summary of the financial aspects of the contract, year by year.
16. The first question which the Commissioner must therefore make a decision on is whether the council's response to the complainant fully responded to the request. If it did, then there is no requirement for the council to take further steps and the council will have complied with the requirements of the Regulations.
17. The Commissioner must make his decision based upon an objective reading of the request. The council must respond to the request as it was made, not what it thinks that the requestor might want, or what it considers he should receive. The Commissioner is also not able to 'shift the goalposts' insofar as the specific wording of a request in order to include information which would not otherwise fall within the scope of the initial request when making his decision.
18. The Commissioner also cannot base his decision taking into account whether the council provided an explanation of the information which was disclosed. This did not form part of the request and is not a right provided to requestors under the Regulations.
19. Having considered the exact wording of the request the Commissioner is satisfied that the information which the council disclosed fully responded to the initial request. The request was very specific in the information it asked for, and the council completed the fields provided by the complainant as requested.
20. In order to demonstrate that the figures it disclosed were the figures it held at that time, the council provided the Commissioner with the documents which it referred to to complete the fields requested by the complainant. It pointed out however that since that time the figures had been amended as time and circumstances had moved on.

The 'unitary charge' field

21. The complainant provided the council with two of the fields completed from information he had received from it previously. He argues that the most recent response does not correlate with these figures. Although it does not form part of this request, it should be noted that the Commissioner has not been able to correlate the figures for the unitary charge field which the complainant provided to the council with the information provided to the Commissioner by the council. This is because the table provided to the Commissioner by the council does not include a single field for the unitary charge. That unitary charge figure is included together with service subsidies and other costs aggregated into one figure.
22. The Commissioner is not required to consider this further however as the request was for the specific data held for the fields which the complainant presented. The Commissioner can confirm that the council has demonstrated that the information which it disclosed was the information held by the council relevant to those particular fields at that time.
23. As the council has demonstrated that the information provided to the complainant was the information it held at the time of the request the Commissioner's decision is that the council has complied with the requirements of Regulation 5 with its initial response to the complainant.

Regulation 9

24. Regulation 9 provides that:

*"9. - (1) A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants."*

25. The primary aim of Regulation 9 is that public authorities should provide advice and assistance to applicants to aid with the formulation of requests.
26. Whilst the complainant obviously wishes further information to make sense of the figures which have been disclosed, his options are to make a new request for that information, or to meet with the council to discuss why the figures provided differ to those he considered should be provided. The council has reiterated on a number of occasions that its preference is to meet directly with the complainant so that it can address as many of the outstanding issues and questions which the complainant has in one meeting. It should be noted however that the council has explained to the Commissioner that it would not be able to provide all of the information which would clarify the figures to the

complainant as some of this is commercially confidential. The council therefore said that some information would be exempt were it to be requested.

27. The council has also asked the complainant to explain the purpose behind his request in order to better facilitate responding to him. The Regulations do not require a complainant to explain the motivation behind his request to an authority when making a request, although the complainant did explain that his association was against any tolling of the bridges and wanted to properly understand what the finances on the bridge project were. There will be some situations however where a better understanding of the motivation and the aim of the requestor might allow the authority to better understand the requests it receives and to focus its responses to the information which the requestor is seeking.
28. The Commissioner considers that in the offer to meet with the complainant, together with the further information which it provided to him once contacted by the Commissioner the council has met with the requirements of Regulation 9.

## Right of appeal

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29. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**