

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 December 2021

Public Authority: West Midlands Combined Authority

Address: 16 Summer Lane
Birmingham
B19 3SD

Decision (including any steps ordered)

1. The complainant requested information relating to the extension of the West Midlands Metro to the Eastside of Birmingham. By the date of this notice the West Midlands Combined Authority ("the WMCA") has not issued a substantive response to this request.
2. The Commissioner's decision is that the WMCA has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the WMCA to take the following step to ensure compliance with the legislation.
 - The WMCA must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The WMCA must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 21 July 2021, the complainant wrote to the WMCA and requested information in the following terms:

"We [redacted] welcome the extension of the West Midlands Metro to the Eastside of Birmingham, but are concerned about the lack of transparency over the publication of the business case documents for the project since it is a large amount of public expenditure.

<https://governance.wmca.org.uk/ieDecisio...>

*Please provide us with copies of the SOBC, OBC, and FBC documents for the project.
(strategic outline business case, outline business case, full business case).
(apologies if the documents have been published elsewhere - we search the WMCA website and were not able to locate them)*

We appreciate that at the time the documents came before the WMCA board there may have been financial information related to contracts under negotiation, but some time has now passed, so if there is any redaction of the documents relating to financial information we expect that to only relate to contracts which have not yet been executed / tendered for."

6. The WMCA acknowledged the request on 21 July 2021. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 6 November 2021 to complain about the WMCA's failure to respond to their request.
8. The Commissioner has considered whether the WMCA has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "*not later than the twentieth working day following the date of receipt*".
11. On 12 November 2021 the Commissioner wrote to the WMCA, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the WMCA has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the WMCA did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the WMCA has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Michael Lea
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Wycliffe House
Water Lane
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