

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 September 2015

Public Authority: Merseyside Passenger Transport Executive
(known as Merseytravel)

Address: PO Box 1976
Liverpool
L69 3HN

Decision (including any steps ordered)

1. The complainant asked Merseytravel a number of questions relating to particular items within the proposed budgets of the Liverpool City Region Combined Authority (the Combined Authority). Merseytravel responded with answers to each question. However contained within those questions were requests for more detailed information in relation to items referred to in the budget. As this information had not been provided the complainant sought an internal review. Merseytravel provided some additional information but withheld other information under section 43 – commercial interests. During the course of the Commissioner's investigation Merseytravel did provide the remainder of the requested information.
2. The Commissioner's decision is that Merseytravel failed to provide the requested information within 20 working days of receipt of the request. This is a breach of section 10 of FOIA.
3. As the request has now been fully complied with the Commissioner does not require the public authority to take any further action in this matter.

Request and response

4. Merseytravel is the name by which the Merseyside Passenger Transport Executive is better known. Its work is overseen by the Combined authority. Merseytravel is the executive body that provides professional, strategic and operational transport advice to the Combined Authority to

enable the Authority make informed decisions. It is also responsible for actually delivering public transport in Merseyside.

5. On 27 February 2015, the complainant wrote to Merseytravel in respect of the proposed budget for the Combined Authority. He asked the following questions:

"1. Will you confirm that that Authority Budget line which is reduced by £1,100 thousand is the line "Transfer to Infrastructure Reserve" at paragraph 3.2.1 of the Authority budget report which originally had a figure of £16,902 thousand for 'Initial Budget 2015/16'. If it is not that line, then will you tell me which other budget line was reduced.

2. Can we have breakdown (to nearest £'000) of the Earmarked reserves of £101,180 thousand at 31 March 2014 which shows the name and purposes of the reserve and whether they belong to the Authority or to the Executive (Merseytravel).

3. Can we have whatever information you have which summarises the expected position for each earmarked reserve in 2014/15 and 2015/16 as reflected in the budget that has just been agreed. I would expect the summary to show the balance b/f at the start of the year, the transfer to each reserve from the Authority's General Fund, any other income, any expenditure, and the balance c/f at the end of the year.

4. As the total budget / levy is the same, the 'Transfer to Infrastructure Reserve' for the Initial budget 2015/16 must be part of the budget that went to the Merseytravel Committee (agenda item 9) but I cannot find it. Can you tell me which Budget page and line includes this transfer.

5. In the Authority's Revised budget for 2014/15 there is a figure of £6,600 thousand for 'Grants to Districts re Strategic Highways funding'. I cannot find a match for this in the budget that went to the Merseytravel Committee. Can you tell me which Budget page and line includes this transfer."

6. Merseytravel responded on 27 March 2015. In respect of the first question it confirmed that the complainant's understanding of the position was correct. It provided a limited breakdown of the information requested at point 2. In respect of question 3 Merseytravel said that it would not be in a position to respond to this element of the request until the closure of that year's accounting process. It did not identify the budget item relating to 'Transfer to Infrastructure Reserve' as requested in question 4. In response to question 5 Merseytravel informed the

complainant that the Grants to Districts re 'Strategic Highways funding' was contained under the heading Policy & LTP of the budget for the Merseytravel Committee.

7. The complainant was satisfied with the response to his first question but sought an internal review of Merseytravel's responses to his other four questions. Following an internal review Merseytravel wrote to the complainant on 28 April 2015. In respect to question 2 Merseytravel said that it was unable to provide any further breakdown of the 'Earmarked Reserves' as the information was commercially sensitive and therefore the information was being withheld under section 43 – commercial interests. It provided further information in respect of the expected 'Earmarked reserves' in 2014/15 and 2015/15 in response to question 3. Merseytravel provided a further explanation of how the item 'Transfer to Infrastructure' was represented in the budget that went to the Merseytravel Committee in respect of question 4 and maintained its position in relation to its response to question 5.

Scope of the case

8. The complainant contacted the Commissioner on 9 May 2015 to complain about the way his request for information had been handled. At that stage the complainant was concerned that he had not been provided with all the information he had requested in questions 2 to 5. As will be explained, during the course of the Commissioner's investigation Merseytravel did provide the complainant with all the information he required. However the complainant was still dissatisfied with the length of time that Merseytravel had taken to provide that information.
9. Therefore the matter to be decided is whether Merseytravel dealt with the request within 20 working days as required by section 10 of the Act.
10. Merseytravel has confirmed that although the request related to the Combined Authority's budget, it regards the request as being made to itself, ie Merseytravel and that it holds the requested information on its own behalf and is responsible for answering the request.

Reasons for decision

11. Section 10 of FOIA states that a public authority must comply with a request promptly, and in any event not later than the twentieth working day following the date the request was received.

12. The Commissioner wrote to Merseytravel on 29 July 2015 and on 7 August 2015 Merseytravel provided the complainant with a spreadsheet of the earmarked reserves. The spreadsheet gave a breakdown of those reserves, grouped according to whether they were allocated to the Combined Authority or Merseytravel, and then set out the position of those reserves for 2014/2015 and 2015/16 as estimated at 31 March 2015. This information was primarily intended to address the requests made in questions 2 and 3. Merseytravel also identified figures within those spreadsheets which related to the items referred to in questions 4 and 5 and provided further explanations in response to those two questions.
13. Although this response provided the majority of the outstanding information including the names of the 'Earmarked reserves' requested in question 2, it did not provide details of the purpose of those named reserves. Furthermore one of the named reserves was simply named as 'Other reserves'.
14. Prompted by the complainant, Merseytravel provided a description of the purposes of the 'Earmarked reserves' on the 13 August 2015. On the 20 and 25 August it identified the individual reserves which had previously been described by the umbrella term 'Other reserves' together with the budget for each of those reserves. On 26 August the complainant confirmed that he was satisfied he had received all the information he had requested.
15. The request was received on the 27 February 2015 and was not fully complied with until 25 August 2015. This exceeds the 20 working days set out in the Act and constitutes a breach of section 10. However as Merseytravel has now provided all the information captured by the request he does not require the public authority to take any further action.

Right of appeal

16. 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

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

17. 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.
18. 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

Pamela Clements
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