

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 September 2023

**Public Authority:** Tees Valley Combined Authority  
**Address:** Teesside Airport Business Suite  
Teesside International Airport  
Darlington  
DL2 1NJ

#### **Decision (including any steps ordered)**

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1. The complainant has requested information on site occupancy at 'Teesworks'. Tees Valley Combined Authority ('TVCA') initially refused to disclose the information, citing section 43(2) (Commercial interests) of FOIA. During the Commissioner's investigation it revised its position and disclosed such information as it held.
2. The Commissioner's decision is that by failing to disclose non-exempt information within the 20 working day time for compliance, TVCA breached sections 1(1)(b) and 10(1) of FOIA. By failing to confirm that it did not hold the remaining information within the time for compliance, it breached section 1(1)(a) of FOIA.
3. The Commissioner does not require further steps as a result of this decision.

#### **Background**

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4. Teesworks is Europe's largest brownfield site. It is currently being redeveloped for a range of industrial and business uses.
  5. According to its website<sup>1</sup>, TVCA is a partnership of five authorities; Darlington, Hartlepool, Middlesbrough, Redcar & Cleveland and
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<sup>1</sup> <https://teesvalley-ca.gov.uk/about/our-region/faqs/>

Stockton-on-Tees, working closely with the Local Enterprise Partnership, wider business community and other partners to lead economic development of the Tees Valley area.

## **Request and response**

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6. On 13 February 2023, the complainant wrote to TVCA and requested information in the following terms:

“Please provide the following information:

- How many businesses have completed all necessary paperwork to become tenants on the Teesworks site as of 13th February 2023?
- How many businesses are in the process of completing necessary paperwork to become tenants on the Teesworks site as of 13th February 2023?
- Provide any targets that TVCA has for the Teesworks site in relation to site occupancy and related time frames. Eg revenue targets, number of tenants by a certain date, percentage of land to be leased etc.”

7. TVCA responded on 13 March 2023. It refused the request, citing section 43(2) of FOIA.

8. The complainant requested an internal review on 12 April 2023. TVCA provided the review outcome on 12 May 2023. It said that section 43(2) had been correctly applied to all parts of the request.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 22 May 2023 to complain about the way his request for information had been handled. During the investigation, he expressed the view that TVCA regularly failed to comply with statutory timescales when responding to requests.

10. During the Commissioner’s investigation, TVCA withdrew its reliance on section 43 to refuse the first and second parts of the request, and it disclosed that information. It explained that it did not hold the information described in the third part of the request, which asked for targets relating to site occupancy. It holds targets for other metrics issued by Government, but none of them relate to site occupancy.

11. The complainant has asked that the Commissioner issue a decision notice, formally recording TVCA’s delays in providing him with the non-exempt information.

## Reasons for decision

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### **Section 1 – General right of access** **Section 10 - Time for compliance**

12. Section 1(1)(a) of FOIA states that a person who asks for information is entitled to be informed whether the information is held. If it is held, section 1(1)(b) states that the person is entitled to have that information communicated to them.
13. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond within 20 working days.
14. By failing to disclose the information it held within the 20 working day time for compliance, TVCA breached sections 1(1)(b) and 10(1) of FOIA. By failing to confirm to the complainant that it did not hold the remaining information within the time for compliance, TVCA breached section 1(1)(a) of FOIA.
15. The Commissioner is particularly concerned that, during his investigation, TVCA identified on 6 July 2023 that some information could be disclosed to the complainant, but it did not do so until 4 September 2023.
16. The Commissioner has made a record of these breaches for monitoring purposes. The Commissioner uses intelligence gathered from individual cases to inform his insight, compliance and enforcement functions. He may re-visit this case, should evidence from other cases suggest that compliance with statutory timescales is an ongoing problem for TVCA.

### **Other matters**

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17. During the Commissioner's investigation, TVCA initially failed to answer all the questions that were put to it, and the Commissioner was subsequently forced to clarify with it that those points required attention.
18. The Commissioner also asked TVCA twice to provide him with a copy of the information it was withholding under section 43 (which it has since disclosed to the complainant), but it failed to do so. He was forced to issue an Information Notice to obtain that information, which resulted in significant delays to his investigation.
19. Furthermore, TVCA exceeded the allowable time for complying with the Information Notice.

20. The Commissioner considers these delays unacceptable and he has made a separate record of TVCA's poor engagement with his investigation, for monitoring purposes.
21. A copy of the Information Notice has been published on the Commissioner's website<sup>2</sup>.

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<sup>2</sup> <https://ico.org.uk/action-weve-taken/information-notice/#information>

**Right of appeal**

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

23. 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.

24. 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 .....**

**Samantha Bracegirdle  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**