

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

### **Decision notice**

**Date:** 22 August 2024

**Public Authority:** West of England Combined Authority

**Address:** 70 Redcliff Street  
Bristol  
BS1 6AL

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

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1. The complainant has made a four-part request for information about advertising campaigns. The West of England Combined Authority ("WECA") issued a response in which it stated that some parts of the request were not valid requests for information, and that for the remainder, the information was exempt from disclosure.
2. During the course of investigation, WECA informed the Commissioner that upon review, it considered that all parts of the request were valid requests for information, and that its original response to the request did not therefore comply with FOIA. WECA also acknowledged that at the time of the request, it did not appear that appropriate searches for information had been carried out before determining that certain information was exempt from disclosure.
3. The Commissioner's decision is that WECA has failed to respond to the request in compliance with its duties under section 1 (General right of access to information) and section 10 (Time for compliance with the request).
4. The Commissioner requires WECA to take the following steps to ensure compliance with the legislation.
  - For each of the four parts of the request, conduct searches for any information falling within their scope, and issue a fresh response in which it confirms or denies information is held. Any held

information should either be disclosed, or a valid refusal notice issued for any exemption WECA intends to rely on.

5. WECA must take these steps within 30 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

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6. On 3 December 2023, the complainant wrote to WECA and requested information in the following terms:

"I am seeking specific information related to past advertising campaigns associated with the mayor's office, particularly those involving Dan Norris. Specifically:

1. The location and method of storage for archived copies of past advertising campaigns.
  2. The process and individuals responsible for approving and signing off on advertising copy before publication, including any relevant documentation (eg. Visual Style Guide)
  3. If identified in point 1, kindly provide copies of previous campaigns specifically related to Dan Norris. If not identified, please conduct a search for records. It is likely that record custodians would be the individuals identified in point 2 who signed off on copy before publication.
  4. Information on whether advertising content is produced in-house or by external agencies."
7. WECA responded on 19 January 2024. It stated the following in respect of each part of the request:
    1. This part was not a valid request for information for the purposes of FOIA.
    2. Some of this part ("the process and individuals responsible") was not a valid request for information for the purposes of FOIA, whilst the information sought by the latter (the "Visual Style Guide") was exempt under section 43(2).
    3. The information was exempt under section 21 and section 40(2).

4. This part was not a valid request for information for the purposes of FOIA.
8. Following an internal review WECA wrote to the complainant on 21 February 2024. It maintained its original response.

### **Reasons for decision**

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9. Under section 1(1) of FOIA, anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. To comply with section 1(1), a public authority is expected to conduct appropriate searches for held information, before issuing a response.
11. A public authority must comply with section 1(1) within the time for compliance set by section 10(1), which is twenty working days.
12. During the course of the Commissioner's investigation, WECA confirmed that, having reconsidered the four parts of the request in conjunction with the Commissioner's guidance, it did not consider that its original response was compliant with FOIA.
13. This was for the following reasons:
  - In respect of parts 1, 2, and 4, WECA explained that it now considered that these were valid requests for information under FOIA, as defined by section 8 (Request for information) of FOIA.
  - In respect of the exemptions originally cited in relation to parts 2 and 3, WECA said that it appeared that the information had not been compiled and reviewed.
14. The Commissioner has considered WECA's position, in conjunction with the four parts of the request.
15. The Commissioner considers that each of the four parts clearly describe the information requested, and therefore represent a valid request for information, as defined by section 8 of FOIA.
16. In respect of the exemptions cited by WECA in response to part 2 and 3 of the request, these appear to have been applied without appropriate searches being undertaken, and the information – if held – then reviewed. The Commissioner cannot consider the validity of an applied exemption in such a scenario.

17. In these circumstances, the Commissioner must conclude that WECA has failed to comply with section 1 and section 10 of FOIA.
18. The Commissioner requires WECA to take the following steps to ensure compliance with the legislation.
19. For each of the four parts of the request, conduct searches for any information falling within their scope, and issue a fresh response in which it confirms or denies information is held. Any held information should either be disclosed, or a valid refusal notice issued for any exemption WECA intends to rely on.

### **Other matters**

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20. Firstly, the Commissioner reminds WECA of the importance of giving a request careful consideration upon first receipt. The failure to do so is highly likely to mean that its response will not comply with FOIA.
21. Secondly, the complainant has explained to the Commissioner that they are concerned about the internal review process. The complainant disputes that it has been undertaken by the named independent person, as the metadata of the internal review outcome, being an electronic document, provides a different name.
22. The Commissioner notes that WECA has confirmed the internal review was undertaken by the named independent person, and the Commissioner is therefore satisfied that this is so. The Commissioner is aware that the 'metadata' of an electronic document will only relate to the creation of the electronic document (for example, who has converted a Microsoft Word .doc file into a .pdf file.). An internal review outcome may therefore be written by one officer, and the electronic document published by another.
23. However, the technical steps that WECA takes to create an electronic document is not matter that falls under FOIA, and the Commissioner cannot direct WECA on such actions.

## Right of appeal

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24. 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)

25. 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.
26. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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