

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

### **Decision notice**

**Date:** 10 December 2014

**Public Authority:** Merseytravel

**Address:** PO Box 1976  
Liverpool  
L69 3HN

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

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1. The complainant has requested information on Levy repayments including a schedule and five years of accounts as well as an explanation for quoted figures. Merseytravel provided some information within the scope of the request but stated no further information was held after further questions were raised by the complainant about the response.
2. The Commissioner's decision is that no further information is held and Merseytravel has complied with section 1(1)(a) of the FOIA.

#### **Request and response**

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3. On 10 February 2014 the complainant wrote to Merseytravel to ask for information on levy repayments, schedules and five years of accounts.
4. Merseytravel responded to the complainant providing some amendments to the Levy repayment schedule and a breakdown of the £28 million figure it had previously provided. This prompted the complainant to respond on 20 March 2014. In this response the complainant pointed out that he had only been provided with three years of accounts and asked for the accounts from 1991/92 and 1993/4 to be disclosed. He also queried whether the schedule he had been sent was correct as the breakdown when added together did not reach £28 million. The complainant also asked for information in the following terms:

*"there was apparently expenditure of £500 thousand in 1993/94 which was described as 'Levy repayment' which is the term Merseytravel used*

*for these 'loan' charges to the Tunnels. The schedule (both the version I had and what you sent me on the 7<sup>th</sup>) of what is supposed to have been charged to the Tunnels starts in 1994/95. Can you please explain how this £500 thousand relates to the £28,000 thousand 'loan', and how the £500 thousand was calculated."*

5. Merseytravel responded on 17 April 2014 in a letter which addressed six information requests it had received from Mersey Tunnel Users Association. With regard to the request of 20 March 2014 Merseytravel stated that the complainant had already had the requested information and there was nothing further to provide.
6. The complainant followed this up with an email on 24 April 2014 in which he clarified he had asked Merseytravel for confirmation that the schedule he had been sent was correct, copies of the accounts for 1991/92 and 1993/94 and an explanation of the £500,000 figure. The complainant stated he had not received this information.
7. Merseytravel responded on 23 May 2014 providing accounts for the two missing years and confirming the schedule was correct. It stated it held no further information on the £500,000 levy repayment figure and reiterated this view on 4 June 2014.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 28 July 2014 to complain about the way his request for information had been handled. As the correspondence between the complainant and Merseytravel contained several overlapping requests the Commissioner considered it sensible to establish the scope of this request.
9. In his complaint to the Commissioner, the complainant expressed dissatisfaction with several aspects of his interactions with Merseytravel but did clarify the part of his complaint which relates to the FOIA as being:

*"What we are complaining about is that it is not credible that Merseytravel has no documentation that explains the £500,000 when they claim that it is related to a loan. I realise that this is 20 years ago, but this is still live as Merseytravel are still charging for what they claim was a loan and they should be able to justify what they are charging. I ask that the ICO ask them to either provide the information requested or give a satisfactory explanation of why they cannot justify the balance on their so called 'levy repayment' or their claim that the debt schedule that they have provided is correct."*

10. On this basis, the Commissioner wrote to the complainant to confirm the scope of his investigation was to determine whether Merseytravel holds information to explain the £500,000 given it is related to a loan.

## **Reasons for decision**

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### **Section 1**

11. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
12. During the course of the investigation and whilst Merseytravel was conducting further searches to establish if any relevant information was held; a further document was located which contained information on the payment and the rationale behind it. This document was subsequently provided to the complainant.
13. Aside from this, Merseytravel maintained its position that no further information was held. It explained that as the repayment was made over 20 years ago the only records that remained were the audited accounts and committee reports and minutes detailing the accounts to members. All other papers and information relating to the accounts would have been destroyed in line with Merseytravel's retention policy.
14. In determining whether any further information on the levy repayment was held Merseytravel undertook a search of the archived paper records which consisted of the audited accounts and committee reports. As the information dated back 20 years none of the records would have been electronic so it only looked at paper records.
15. Merseytravel has explained that when the accounts for any financial year are produced there are a set of working papers produced alongside the accounts which explain the contents. However, these working papers are only kept for three years in accordance with Merseytravel's document retention policy. Therefore, Merseytravel was unable to locate any information about the repayment figure and the accounts for 1993/94.
16. Merseytravel has explained that if the accounts are independently audited then the working papers that accompany the accounts are required to be kept for a further six years before being securely destroyed. However, again due to the time that has elapsed no records are held.

17. Merseytravel has further stated that it has no business purpose for retaining these records beyond their retention period once the final audited accounts are published along with the committee minutes and report.
18. Based on the submissions provided the Commissioner is satisfied that it was reasonable for Merseytravel to conclude that any information held would have been in its paper archive due to the age of the information. The Commissioner has been provided with a copy of Merseytravel's guidance on the retention of documents and acknowledges that this is in line with the information Merseytravel has provided on the timescales for the destruction of records.
19. The Commissioner has therefore concluded that as Merseytravel has searched its archives for this information and has a clear retention and destruction policy for records and documents of this type, on the balance of probabilities further information on the repayment figure is not held by Merseytravel under section 1(1)(a) of the FOIA.

## Right of appeal

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20. 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)

21. 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.
22. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**