

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

### **Decision notice**

**Date:** 1 March 2022

**Public Authority:** West of England Combined Authority  
**Address:** 3 Rivergate  
Bristol  
BS1 6ER

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

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1. The complainant requested information from the West of England Combined Authority ("WECA") about the basis of claims made about the economic impact of the proposed Great Western Freeport. WECA disclosed information in response, but the complainant argued that he believed further recorded information was held.
2. The Commissioner's decision is that he is satisfied that WECA has disclosed all the relevant recorded information which it held.
3. The Commissioner does not require WECA to take any steps.

#### **Request and response**

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4. On 5 February 2021, the complainant wrote to WECA and requested information in the following terms (numbers added for ease of reference):

"In this release, Great Western Freeport could create almost 50,000 jobs in the region - West of England Combined Authority ([westofengland-ca.gov.uk](http://westofengland-ca.gov.uk)), you say that the new freeport could bring in 50,000 jobs and bring in £3bn a year

I'd like please:

1. Any report and data/evidence used to support both of these claims
2. Any reports held by the authority, done over the last 12 months, concerning the economic impact and likely jobs created by the freeport
3. Any draft copies of any of the reports requested in 1 and 2 above
4. Minutes of any meetings held over the last 18 months between senior leadership at WECA and anyone from Bristol Port, including any of its owners/senior leadership team/subsidiary companies."
5. WECA responded on 4 March 2021. It provided some information within the scope of the request. It provided a link to a technical note about the economic impact of the Great Western Freeport available on its website and a link to The West of England Local Enterprise Partnership Board minutes.
6. The complainant requested an internal review on 8 March 2021, raising two issues. In relation to point four of the request, the complainant queried whether any minutes of informal meetings were held and in relation to points one to three of the request, stated, "I also asked for any reports held by the authority - and drafts of those reports - backing up the public assertions made: sending me a two page summary is not a full response".
7. Following an internal review WECA wrote to the complainant on 7 April 2021. It stated that no further minutes were held and provided a copy of a draft unpublished technical note from University of Plymouth dated February 2022, which the Commissioner assumes was an intended future publication date. It stated that the draft unpublished technical note had been unavailable at the time of the request and was provided for helpfulness. It also stated that WECA's initial application for the Freeport was unsuccessful and there is no indication there will be a future English bidding round.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 14 April 2021 to complain about the way his request for information had been handled. He is dissatisfied with WECA's response to points 1-3 of his request. Specifically, he considers that more information is likely to be held.

9. This decision notice covers whether WECA holds any further recorded information falling within the scope of the request.

## **Reasons for decision**

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### **Section 1(1) – duty to provide information held**

10. Section 1(1) of 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.”

11. In cases where there is a dispute over whether information is held, the Commissioner applies the civil test of the balance of probabilities in making his determination. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held, in cases which it has considered in the past.
12. The Commissioner will consider the complainant’s evidence and arguments. He will also consider the actions taken by the public authority to check whether the information is held, and any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is held.

### **The complainant’s view**

13. The complainant’s view is that it is likely that WECA would hold further information about how the 50,000 jobs and £3bn a year figures had been arrived at.

### **WECA’s view**

14. WECA’s position is that no further information within the scope of the request is held beyond that which it has already disclosed.
15. It believes that it has carried out appropriate searches likely to retrieve any relevant information. It has checked folders and email folders including deleted items, sent items, folders and archived items for additional information that might be relevant to the 50,000 jobs and £3bn claims using the terms ‘freeport’, ‘job impact’, ‘economic report’, ‘economic impact freeport report’ ‘freeport modelling report’ and

`\*freeport jobs' and `\*freeport £3bn'. It also reviewed requests for the appointment of external contractors (who would have completed any relevant reports), funding allocations to pay for these appointments and contractual obligations to third parties (detailed briefs, draft reports, regular diary commitments for contract management etc) in relation to freeport related work. Its position is that none exist in relation to the Freeport beyond those about which it has already provided information.

### **The Commissioner's decision**

16. The Commissioner's remit in this case is to establish whether, on the balance of probabilities, further information falling within the scope of the request is held.
17. He is satisfied by WECA's explanations as to how it has ensured that all information within the scope of the request has been identified. His decision is that, on the balance of probabilities, it was correct to state that it did not hold any further information and that it had disclosed all of the information held.
18. He does not require WECA to take any steps.

### **Other matters**

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19. In the course of this investigation the Commissioner also asked WECA to explain what it meant when it stated that the draft unpublished technical note from University of Plymouth dated February 2022, which it "provided for helpfulness" following an internal review, was "not available" at the time of the request and to confirm whether it considered it to be within the scope of the request.
20. The Commissioner is concerned by the explanation WECA has provided about why it did not consider the draft unpublished technical note from University of Plymouth to be in scope at the time of the request.
21. WECA's explanation was as follows:

"A more detailed information note, based on early drafts, required further discussion and agreement with the University, to ensure there was an accurate overarching narrative which was reflective of the dynamic nature of the analysis - in its draft form at the time it was misleading factually and not considered within scope. The date on the note reflects the point it was started but not finalised accurately. At the point of the second request, these issues had been resolved and we felt it was helpful to share the additional detail to further corroborate findings in the original document;

however, the fundamental econometric methodology applied to arrive at our figures set out in all reports is technically robust and we feel more than adequately covered by our original response.”

22. The Commissioner’s view is that it is likely that this technical note was within the scope of the request, and his understanding from the above explanation given by WECA is that a version of this document was held at the time of the request.
23. Whilst the Commissioner has not found any breach of FOIA given that this information was disclosed at internal review stage, he wishes to stress that whether or not information is held or in scope is a simple matter of fact and the accuracy of information or how it was created is not relevant to the fact of whether it is held. WECA should ensure that it is clear on these points when identifying all the information it holds within the scope of future information requests.

## 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: 0300 1234504

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.

**Signed .....**

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**