

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 22 November 2022

Public Authority: West Midlands Combined Authority
16 Summer Lane
Birmingham
B19 3SD

Decision

1. The complainant asked a series of questions about the Soho Rd BID and planters placed in the area. The West Midlands Combined Authority (the "WMCA") failed to answer the request until they responded to a request for internal review.
2. The Commissioner's decision is that, on a balance of probabilities, the WMCA does not hold any further information in scope of the request. However, they failed to provide a response to the request for information until their internal review which, was outside the designated time frame and therefore breached section 10 and section 17 of FOIA.
3. No steps are required as a result of this decision notice.

Request and response

4. The complainant made the following information request to the Council on 26 November 2021:

"1- As one of the large plant containers put by Soho Rd BID using WMCA would cost about £400 each.
yet Soho Rd BID put 59 pf these plant containers end of July 2021, so Soho Rd BID only paid for one plant container, so was the rest of £7,600 spent on Soil and installtion?"

As we did ask in previous FOI to WMCA how many plant containers did this Soho Rd BID but using this £8,000 Public money funding? WMCA failed to provide this FOI, so again can WMCA let us know how many plant containers did Soho Rd BID using £8,000 funding? WMCA should have this information as Soho Rd BID would have provided WMCA a breakdown where this funding was spent and on what?

2- Please can WMCA provide receipts provided by Soho Rd BID showing on what and where this £8,000 public money funding was spent? like to see evidence on what this public was spent on. WMCA can block out the names on the receipts to hide suppliers of the planters, soil.

3- Also on WMCA reply today it said it provided this funding to Soho Rd BID in June 2020, so was this funding provided to Soho Rd BID last year in June 2020? Because Soho Rd BID only put the planters in July 2021 using WMCA funding, so why did it take over a year to put these planters?

4- Thirdly WMCA said the funding was for Soil for these planters, yet pictures we had taken shows this was not soil, in fact it was dirt which has little stone in the dirt which was put in plant containers, so why was dirt mixed with little stones put in these planters? Why wasn't proper Soil not used and put in these new plant containers?

This is the reason we have asked WMCA to provide receipts showing Soho Rd BID has brought proper soil for these planters and we like to see how bags of soil was brought using Public money funding from WMCA.

5- WMCA also said the funding was installation of these plant containers, please FOI let us know what is meant by installation of these planters? As plant containers don't need installation. Like to see by receipts from Soho Rd BID how much they paid for installation?

We are asking WMCA to provide Receipts from Soho Rd BID showing where and on what the £8,000 of public money funding was actually spent on?

The receipts will provide evidence where and what this public money was spent on.

The reason this additional FOI and clarification is requested, as we had investigated Soho Rd BID when they were given Big Lottery funding for

some Soho Rd Life magazine and exposed this Soho Rd, they did Not do what they said they did.

Would appreciate WMCA reply to additional FOI and clarification.”

5. The requester set out the grounds for internal review which they chased up on a number of occasions being allocated new case numbers (145578), (161482), (166090), (169895) which confused the requests. The WMCA eventually responded on 4 July stating that it had disclosed all relevant information and did not hold any further information in scope of the request.

Reasons for decision

6. This reasoning covers whether WMCA is correct when it says that it has disclosed all information in scope of the request.
7. The Commissioner understands that the request in this case is asking for specific information about a bid for funding and subsequent costs for planters in a specific area. The Commissioners role is to determine whether WMCA disclosed all the information in scope under FOIA.
8. There is no requirement for WMCA to create information in order to answer the requesters questions, their obligation is to supply information they held at the time of the request. From the information provided to him, the Commissioner is satisfied that, on the balance of probabilities, WMCA supplied all the relevant information in scope of the request at the time of the request.

Procedural matters

9. The public authority breached section 10 of FOIA because it failed to inform the complainant, within 20 working days, whether or not it held any information within the scope of their request.
10. The public authority also breached section 17 of FOIA in responding to this request. The public authority failed to provide a refusal notice within 20 working days.

Right of appeal

11. 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

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

12. 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.
13. 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

Phillip Angell
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