

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 January 2012

**Public Authority:** The Board of Trustees of the Tate Gallery  
**Address:** Millbank  
London  
SW1P 4RG

#### Decision (including any steps ordered)

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1. The complainant requested all information relating to ticket sales at Tate Britain public events on specified dates held by the finance department and the department responsible for issuing/receipt of payment for tickets. The Tate provided the complainant with some information explaining that this was all the information it held about ticket sales. Some additional information was found during the Information Commissioner's investigation which was provided to the complainant.
2. The Information Commissioner's decision is that, on the balance of probabilities, the Tate has now provided the complainant with all the information it holds relevant to the requests.
3. The Information Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

#### Background

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4. The complainant submitted his original request (detailed below) on 1 April 2011. Having received the Tate's response, the complainant requested an internal review. Prior to undertaking the review, the Tate contacted the complainant seeking clarification of its interpretation of the request. The complainant confirmed that the Tate's interpretation was correct but added in some three additional time periods for months in 2005.
5. The Tate chose to handle the additional dates as a new request although the only change was the inclusion of the additional specified months. The complainant complained to the Information Commissioner about both requests, which have been investigated jointly. Given that

the original request evolved to include extra dates, this notice serves as the Information Commissioner's decision in relation to both the original request and supplementary request.

## Request and response

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6. On 1 April 2011, the complainant wrote to the Tate and requested information in the following terms:

*"Please supply me with all the information relating to ticket sales at Tate Britain public events between 1 April 2005 and 1 May 2005 held by the Finance Department and the Department responsible for issuing/receipt of payments for tickets.*

*This will include paper and electronic records including correspondence, reports, hand written notes, notes of telephone conversations, minutes of meetings, photographs or any other form of recorded information.*

*I would be grateful if you provide inspection of the information with the provision of photocopies as required.*

*Please advise me if there are any exemptions to this request."*

7. The Tate responded to the complainant on 10 May 2011, providing copies of the information it held relevant to the request.
8. The complainant requested an internal review on 27 May 2011, as he did not accept that the information disclosed represented everything held by the Tate relevant to his request. On 9 June 2011 the Tate wrote to him seeking clarification about his request stating that, in light of this requirement for clarification, it could not hold an internal review at that stage.
9. The complainant responded on 14 June 2011, adding in some additional dates for months during 2005 but did not amend the Tate's interpretation of the request. The Tate then treated this clarification as a new request with the internal review of both requests ultimately being carried out on 27 July 2011. The review concluded that no further information to that disclosed previously was held by the Tate relevant to either request.

## Scope of the case

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10. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He

considered the information provided by the Tate to be *"incomplete as it only referred to Courses run by the Defendants' Education Department"*.

11. He also expressed concern about the Tate's handling of the internal review which falls under *'Other Matters'* in this notice. During the Information Commissioner's investigation, the complainant raised some further issues which do not fall under the remit of the FOIA and so are not covered in this notice.

## Reasons for decision

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12. Section 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."*

14. The task for the Commissioner here is to determine whether, on the balance of probabilities, the Tate held any further information relevant to the requests which it had not disclosed to the complainant. Applying the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.
16. The Information Commissioner asked the Tate to comment on the complainant's assertion that it had provide him with incomplete information because *"it only referred to Courses run by the Defendants' Education Department"*. In response, the Tate advised that its Membership and Ticketing department ('MTS') holds all the ticket sales information for public events held at Tate Britain for the periods in question, explaining that if an event is ticketed, then irrespective of which department within Tate Britain has organised it, the relevant ticket sales information will be recorded by MTS. The Tate therefore informed the Information Commissioner that it had provided complete information to the complainant and that it considered his assertion to be incorrect.
17. The Tate explained that MTS has an electronic bookings system ('ENTA') which records the bookings of events made by patrons to the gallery in person at the ticket desk, online and over the telephone by

- cash, cheque or credit/debit card payment. It advised that its finance department receives the ticket sales information for public events from MTS as appropriate, or can run reports itself from the ENTA database. Ticket sales information for each event is sent to an appropriate accounting code in ENTA, which tallies with the finance department's electronic finance system ('AGRESSO').
18. During the Information Commissioner's investigation, the Tate clarified that the ticket sales information stored on ENTA as inputted by MTS, only pertains to ticketed events and that non-ticketed events do not produce any data on the ENTA system.
  19. The Tate confirmed that it only uses AGRESSO for high level aggregated financial information and does not store financial transactions at the low level of detail as was requested by the complainant, because this is stored on ENTA.
  20. For the avoidance of doubt the Tate confirmed that the information requested by the complainant was never entered onto AGRESSO and would not be because financial data is only held at a summary level by the finance department, which explains why the MTS department (which uses the ENTA system) provided the information requested by the complainant, and not the finance department.
  21. The Tate also confirmed that ticket sales information is only stored electronically on its IT systems and is not archived in hard copy form in the Tate's archive.
  22. The Information Commissioner asked the Tate about the searches it had carried out for information falling within the scope of the requests and why these searches would have been likely to retrieve all relevant information. In reply, the Tate confirmed that its MTS Department carried out an electronic data search on ENTA. The search terms included the relevant dates for the public events and the venue parameter (ie Tate Britain).
  23. It advised that there are no extant manuscript records on public events ticket sales and explained that even if any manuscript notes had been made by individual members of staff in 2005, there was no records management retention schedule policy for such handwritten notes at that time. It confirmed that the raw data for the ticket sales information is held by MTS on ENTA. Its finance department aggregates MTS ticket sales information on an IT system called AGRESSO which has a retention schedule policy of four years after which period the information is deleted/destroyed and it is for this reason that the relevant ticket sales information on the individual public events was retrieved solely by MTS.

24. It also advised that the electronic data search was made on a centralised IT system, explaining that it is contrary to the Tate's IS Security Policy for ticket sales information to be held locally on personal computers.
25. With regard to the recorded ticket sales information relevant to this request, the Tate confirmed there is no internal practice of making manual records for ticket sales. The electronic booking system is designed so that everything pertaining to the booking of tickets is made electronically. It was not part of the staff procedure to record manuscript notes and therefore it was not part of any records management/retention policy at that time for Tate staff to retain, delete or destroy such records. For this reason the Tate was not able to either confirm or deny that manual records relating to the ticket sales information were a) ever held or b) deleted or destroyed.
26. The Tate's retention schedules for ticketing sales information from MTS were devised in June 2011 and it advised that the period for retention is seven years. Retention schedules for the finance department were devised in 2009. Financial records are retained for the financial year in which they are created plus a further six years (in accordance with the Limitation Act 1980) ie seven years in total.
27. The Tate confirmed that electronic information on ENTA is not deleted. Subject to Tate's Business Continuity Plan, this electronic information is held in one location and copies are not permitted to be held in other locations as this is contrary to Tate's IS Security Policy. It added that the information on ENTA is backed up every night (and then held only for 12 months thereafter) on a Business Continuity Plan Server. Information on that server is also held for 12 months. The Tate has therefore assured the Information Commissioner that the requested ticket sales information for public events at Tate Britain for the period 2005 is not held anywhere other than on ENTA.
28. The Information Commissioner formed a preliminary view that the Tate had disclosed all the information it held relevant to the requests and he invited the complainant to consider withdrawing his complaints. However, in response to this the complainant submitted a lengthy document raising various points, some of which the Information Commissioner has deemed as not being relevant. He did however seek clarification via the Tate on a number of issues raised by the complainant.
29. On reviewing the correspondence on the file following his preliminary view of the complaint, the Information Commissioner noted the Tate had advised him that it had found some additional information relevant to the complainant's request for three dates, specifically for ticketed sales relating to films on 3 and 10 April and 1 May 2005. The Tate's

Head of Ticketing was not able to confirm definitively why these dates had been omitted from the original information provided to the complainant; however, he suggested that it may be due to a technical data error in the selection process or, because the system had recently been updated, that it may be due to some bugs around selection. On 28 November 2011 the Information Commissioner requested the Tate provide this information to the complainant if it had not already done so. The Tate complied with this on 5 December 2011.

30. Due to the inadvertent omission of some of the data from the information provided to the complainant as described above, the Information Commissioner asked the Tate to consider performing a further search for the requested information. The Tate confirmed it had performed a further search for the requested information via ENTA and submitted an email to evidence this, dated 1 December 2011. No additional information was found.
31. During the investigation, the complainant raised some concern about a Sunday Film Permission Licence. The Tate provided the Information Commissioner with a copy of the relevant licence and agreed that it could be forwarded on to the complainant. The Tate has confirmed that it concurs with the Information Commissioner's view that the Sunday Film Permission Licence is not relevant to either of the requests, explaining that the complainant had raised it with another public authority and that it had only come to light during the Information Commissioner's investigation. As such, the Information Commissioner has not considered this aspect any further.
32. In coming to a conclusion upon this case the Information Commissioner has taken into account the explanations provided by the Tate as well as being guided by the Tribunal decisions highlighted above. The Information Commissioner considers that on the balance of probabilities any further requested information (than has already been provided) is not held by the Tate.

## Other matters

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33. The complainant maintains that he made a request for an internal review of his original request, and that the Tate sought clarification of its interpretation of that request prior to review, which is reflected in the correspondence on this case. At the point of providing the clarification of the request, which matched the Tate's interpretation, the complainant added in some additional dates. The Tate chose to deal with this as a new request and did not carry out the requested internal review until it had responded to the new request, whereupon it reviewed both requests.
34. The Information Commissioner has considered the Tate's handling of the request for an internal review and has determined that the additional dates constituted a 'refined request' as opposed to a new request. He would normally expect public authorities to deal with such a refined request as part of the internal review, dealing with the original request in the review and addressing the supplementary aspects as part of the review and within the statutory 20 working days. However, he has noted that the complainant requested the internal review on 27 May 2011, the Tate asked for clarification of its interpretation on 9 June 2011, which was provided by the complainant on 14 June 2011, and that the Tate ultimately carried out the internal review (of both the original and what it treated as a new request) on 27 July 2011 (43 working days). The recommended maximum time period for conducting an internal review under the section 45 Code of Practice is 40 working days for a request under the FOIA. The Information Commissioner has concluded that the timescale in this case, although just outside the recommended time limit, was not excessive, but he would remind the Tate of the need to carry out reviews in a timely manner and to recognise when a request has been refined.

## Right of appeal

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35. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

36. 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.
37. 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** .....

**Jon Manners**  
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**Information Commissioner's Office**  
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**SK9 5AF**