

Freedom of Information Act 2000 (FOIA)

Date: 20 June 2019

Public Authority: Gambling Commission
Address: Victoria Square House
Victoria Square
Birmingham
B2 4BP

Decision (including any steps ordered)

1. The complainant has requested information relating to a bookmaker that changed its terms and conditions of a special offer.
2. The Commissioner's decision is that the Gambling Commission (GC) does not hold any further information other than that which has been provided to the complainant under section 1(1)(a) of the FOIA.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 16 April 2018, the complainant wrote to the GC and made a seven part request. The GC responded in 29 May 2018 and provided responses to six of those parts.
5. Part seven of the request was for evidence to support statements about the remit and role of the GC and its limitations. The GC provided a link to its website and cited section 21 of the FOIA (information already reasonably accessible).
6. On 25 June 2018 the complainant made a further five part request for information about the correspondence he had sent to the GC. This was

treated as a meta request¹ (a meta request is a request for recorded information about the handling of a previous information request). The GC responded on 23 July 2018 and provided some of the information requested. However, it also stated that it did not hold some of the information.

7. The complainant wrote to the GC again on 8 August 2018 stating:

"for the third and final time I am asking you for the decision your compliance team/regulatory department arrived at in respect of my complaint"

8. The GC responded on 14 August confirming that it had provided all the information it held. It further stated in that letter that it would not enter into any further correspondence with the complainant about this particular matter.

Scope of the case

9. The complainant contacted the Commissioner on 29 November 2018 to complain about the way his request for information had been handled. Following correspondence with the complainant it was confirmed that the outstanding matter relates to the conclusions of the compliance team:

"What decision did the compliance department at the Gambling Commissioner arrive at in respect of my complaint about William Hill's treatment of thousands of their customers in England Scotland and Wales as well as N Ireland on 21 July 2017?"

10. Therefore the scope of this case is to determine if the GC has provided all the information it holds in relation to the outstanding matter and complied with its obligation under section 1 of the FOIA.

Reasons for decision

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*
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¹ <https://ico.org.uk/media/for-organisations/documents/1620/requests-about-previous-requests-for-information-meta-requests.pdf>

by the public authority whether it holds information of the description specified in the request". Section 1(1)(b) of FOIA states that, "If that is the case, to have that information communicated to him".

12. In scenarios where there is some dispute between the public authority and the complainant about the amount of information that may be held, following the lead of a number of Information Tribunal decisions, the Commissioner applies the civil standard of the balance of probabilities.
13. For clarity, the Commissioner is not expected to prove categorically whether the information is held; she is only required to make a judgement whether on the balance of probabilities a public authority holds any information within the scope of the request.
14. As is usual in these cases, the Commissioner asked the GC what searches it had carried out in an attempt to locate the information requested.
15. It explained that electronic searches had been performed, and a key individual in the compliance team was asked for their opinions on the original complaint letter. The searches recovered an entire email chain relating to all the interactions the GC had had with the complainant. This would be likely to be the personal data of the complainant and therefore not disclosed under the FOIA.
16. The GC also stated that it spoke to specific staff members that had previously dealt with the complainant and opinions were offered on how to respond. However, there are no recorded decisions contained within documents or other electronic systems relating to the complaint.
17. Electronic searches had been carried out on GC's document library and some employee personal computer drives. Additional searches were carried out on its email infrastructure, archive network file servers and its "CRM" system.
18. The GC did not consider it necessary to search all employee personal drives as the information would most likely be linked to email. If such an email was stored in an individual's mailbox (including deleted items and server recycle) it would have captured it in its search.
19. The GC went on to explain that it will usually hold details of information passed to it from multiple sources that relate to the compliance of a gambling operator. In many cases it will also have records of what was done with that information and any relevant outcomes. However, it will not have that information recorded in all cases. The Commission is not obliged to act on all information that it receives, nor formally record that no action is taken if indeed that is the case. The GC however accepts that it would be good practice to do so.

20. In its submission to the Commissioner the GC also explained that, in this particular case, the information the complainant provided to them was passed on to a betting specialist that supports its compliance function. The specialist discussed with the contact centre how best to respond to the complainant. The response was finalised and sent to the complainant. It stated that there are no records held that specifically detail a decision-making process about the complaint relating to the bookmaker.
21. The Commissioner is satisfied that the GC has provided her with a sufficient explanation and adequate searches for any information it may hold. On the balance of probabilities, the Commissioner considers that the GC does not hold any further information within the scope of the request and therefore that it has complied with section 1 of the FOIA in this case.

Right of appeal

22. 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

23. 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.
24. 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
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SK9 5AF