

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 June 2023

Public Authority: Financial Ombudsman Service
Address: Exchange Tower, London
E14 9SR

Decision (including any steps ordered)

1. The complainant has requested an explanation of how the legislation held by the public authority affects the handling of service complaints. The Financial Ombudsman Service (FOS) stated no recorded information is held.
2. The Commissioner's decision is that on the balance of probabilities, FOS does not hold the information requested and has complied with its obligations under section 1(1) of the FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 1 February 2023, the complainant wrote to FOS and requested information in the following terms:

"How does the current recorded legislation held by the Financial Ombudsman Service come into effect, when the independent assessor gives a final decision on a service complaint without actually addressing the service complaint itself."
5. FOS responded on 1 March 2023. It stated that it did not hold the information and was not required to create it, as the Independent Assessor is separate to the Ombudsman. It advised, however, that some information about the topic was available on its website and signposted the requestor to this.

6. The complainant requested an internal review on the same date, stating they had not asked FOS to create new information, as they had only asked for current legislation.
7. FOS responded on 27 March 2023, reiterating its position that the information was not held.

Reasons for decision

8. Section 1(1) FOIA provides 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.”

9. The Commissioner has sought to determine whether, on the balance of probabilities, FOS holds any recorded information that falls within scope of the request.
10. FOS is an independent public body created by the Financial Services and Markets Act (2000) to resolve disputes between financial businesses and consumers.
11. The Independent Assessor is appointed by the Board of FOS to consider complaints about the level of service provided by the Ombudsman. They are impartial and independent from the Ombudsman, which has its own internal complaints service to be carried out prior to the Independent Assessor’s involvement.
12. Additionally, in their request, the complainant does not appear to be requesting copies of legislation, but rather an explanation of how it applies. Simply providing the legislation would not fulfil the request, while answering it fully would require the public authority to create new information. This is not a requirement of FOI.
13. Based on this reasoning, the Commissioner considers that, on the balance of probabilities, FOS does not hold the requested information. The Commissioner does not require it to take any further steps regarding this matter.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Joanna Marshall
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF