

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

### **Decision notice**

**Date:** 5 October 2023

**Public Authority:** Financial Ombudsman Service  
**Address:** PO Box 72308  
London  
E14 1QQ

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

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1. The complainant requested the Financial Ombudsman Service (FOS) to disclose any recorded information it holds which details the process to be followed when a FOIA request is received to establish whether or not some or all of the requested information has already been disclosed in connection with an earlier request. FOS confirmed that it does not hold the requested information.
2. The Commissioner is satisfied that on the balance of probabilities FOS does not hold any recorded information of the nature specified in the request. He therefore does not require any further action to be taken.

#### **Request and response**

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3. On, 17 December 2022, the complainant requested FOS to provide the following information:

"Please can you provide the information held by your information rights teams as to:

(a) the process to be followed when you receive a FOIA request so as to check whether or not you have already released some or all of the information that has been requested - i.e. due to a previous FOIA request made by another individual, for example.

(b) the process to be followed thereafter if you are aware that some or all of the information has already been released previously due to a previous FOIA request (or your general publication policies)..”

4. FOS responded on 13 January 2023. It confirmed that it does not hold the requested information.
5. The complainant requested an internal review. FOS carried out an internal review and notified the complainant of its findings on 27 January 2023. It upheld its previous position.

### **Scope of the case**

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6. The complainant contacted the Commissioner to complain about the way their request for information had been handled.
7. The Commissioner considers the scope of his investigation to be to establish whether or not, on the balance of probabilities, FOS holds the requested information.

### **Reasons for decision**

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#### **Section 1 – does FOS hold the requested information?**

8. FOS confirmed that it originally took a narrow interpretation of the request as being concerned only with information disclosed in response to a previous FOIA request. On reflection, it considers that there is a broader interpretation available, which covers information published either to comply with its publication scheme requirements or at the discretion of FOS, which would include generally accessible information that would fall within the wording of the request. FOS advised that even if it takes the broader interpretation, its position remains the same that it does not hold the requested information.
9. It explained how FOIA requests are handled on a case by case basis and how it holds no guidance or process notes which specifically reference the checking of previous requests when logging a new one. It stated that given its approach to the FOIA process, this has not been considered a necessary step to implement as part of its formal process, and therefore it is not documented as part of its process. It argued that there is a reliance on the knowledge and expertise of the team administering the FOIA process to correctly apply exemptions based on information which is already publicly accessible to the requester,

however this step is not detailed in any guidance or process documents it holds relating to the handling of FOIA requests.

10. FOS confirmed that it discussed the request with its Data Protection and FOIA Manager, who conducted searches of its network drives (which is where its guidance or process documentation is held). However, no information which falls within either interpretation of the request is held. FOS confirmed that it carried out a fresh search as a result of the Commissioner's investigation and this again resulted in no relevant recorded information being held.
11. FOS went on to say that it did not provide a set of written processes to staff for the processing of FOIA requests at the time the request was made. Such documentation was in the process of being developed. That still remains the case today and it has not yet been rolled out. At the time of the request it relied on training for new members of the team, which involved shadowing more experienced advisors, to learn the process rather than having documented processes and guidance for them to follow. It recognises that this is an area for improvement and it is currently developing its suite of policies and guidance surrounding FOIA to address this.
12. It confirmed that it has thoroughly reviewed all documentation that is in draft form and it does not contain information that falls within the scope of the request, as it does not include taking any recorded steps to look back at previous FOIA requests or previously released or published information when handling a new request.
13. FOS said it also holds general information about FOIA which is made available to wider areas within the organisation, so that its staff understand its obligations under FOIA, the information it covers, and what to do if they receive a request, or how to assist the team in responding to one. Again, it confirmed that none of this information falls within the scope of the request.
14. The Commissioner is satisfied that on the balance of probabilities FOS does not hold the requested information. It has explained how FOIA requests are handled and how they are handled on a case by case basis. It has explained how staff are not expected to check whether it has already released some or all of the information that has been requested or whether the requester has made previous requests, unless they are considering whether section 12 or 14 of FOIA may be relevant. None of the information it does hold therefore contains the requested information. It has carried out adequate searches of the records it does hold and the draft documentation it has referred to. Again it has confirmed that none of this contains the requested

information. The Commissioner has no reason to doubt FOS's position and has not received any evidence to the contrary.

15. The Commissioner is therefore satisfied that FOS has complied with section 1 of FOIA, by confirming that it does not hold the requested information. The Commissioner accepts that on the balance of probabilities this is correct.

## **Right of appeal**

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16. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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**

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**