

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2024

Public Authority: Financial Conduct Authority
Address: 12 Endeavour Square
London
E20 1JN

Decision (including any steps ordered)

1. The complainant has requested a breakdown of complaints submitted to another organisation. The Financial Conduct Authority ("the public authority") refused to provide the requested information, citing section 44(1)(a) (prohibitions on disclosure) of FOIA.
2. The Commissioner's decision is that the requested information is exempt under section 44(1)(a).
3. The Commissioner does not require further steps.

Request and response

4. On 17 August 2024, the complainant wrote to the public authority and requested information in the following terms:

"The number of P2P (peer to peer) complaints submitted to the Financial Ombudsman Service each calendar from 1 April 2014 through to the date when your analysis is compiled 2.

For each calendar year, please sub divide the total number of complaints by:

- number upheld (+ average duration from date of receipt to date of adjudication)
- number not upheld (+ average duration from date of receipt to date of adjudication)
- number pending (+ average duration from date of receipt to date when your analysis is compiled)

3. For the number not upheld in each calendar year, please advise how many complaints were escalated to the Ombudsman

4. For each calendar year, please sub divide the total number of complaints escalated to the Ombudsman by:

- number upheld (+ average duration from date of receipt to date of adjudication)
- number not upheld (+ average duration from date of receipt to date of adjudication)
- number pending (+ average duration from date of receipt to date when your analysis is compiled)."

5. The public authority responded on 4 September 2024. It stated that it held relevant information but that it was exempt under section 44(1)(a).
6. The complainant requested an internal review on 5 September 2024.
7. The public authority provided the outcome to its internal review on 27 September 2024. It upheld its previous position.

Reasons for decision

Section 44 – prohibitions on disclosure

8. Section 44 of FOIA exempts information where its disclosure is prohibited by other legislation.
9. In this case the public authority believes the requested information is exempt under section 44(1)(a), by virtue of section 348 of the Financial Services and Markets Act 2000¹.
10. Section 348 of the Financial Services and Markets Act 2000 prevents the public authority from disclosing information that meets the following four criteria:
 - It is information the public authority receives, in the course of discharging its functions;
 - That relates to the affairs of a particular business;
 - Unless that information has been made public already; or
 - Unless the information is provided in a general form that makes it impossible to relate particular information to a particular business.
11. In their internal review request, the complainant raised concerns that the requested information 'is completely anonymous (just a set of numbers, not attributable to "a person's business or other affairs"'.
12. In response, the public authority confirmed 'Considered from the perspective from the individual complainants or business that are the subject of the complaints, this is true...however, this is information relating to the affairs of the Financial Ombudsman Service; what you are requesting amounts to specific, non-anonymised, information about the affairs (caseload) of the Financial Ombudsman Service.'
13. The public authority is the Financial Conduct Authority and the complainant has requested information about the number of complaints it made, as a regulator to an ombudsman, the Financial Ombudsman Service.

¹ [Financial Services and Markets Act 2000](#)

14. The Commissioner has revisited the criteria at paragraph 12 and he is satisfied the withheld information meets all four:
 - It is information that the Financial Conduct Authority received, in the form of complaints, as part of its function as regulator;
 - It relates to the affairs (caseload) of the Financial Ombudsman Service;
 - The information hasn't been made public; and
 - It is possible to link the information to the business in question, because the Financial Ombudsman Service has been named in the request.
15. Publication of the requested information would be prohibited by the Financial Services and Markets Act and therefore the withheld information engages section 44(1)(a).
16. Section 44(1)(a) is an absolute exemption which means, if it applies to information it's automatically exempt, there is no requirement to consider the public interest.

Right of appeal

17. 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

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF