

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 May 2025

Public Authority: Department for Education
Address: Sanctuary Buildings
Great Smith Street
London
SW1P 3PT

Decision (including any steps ordered)

1. The complainant requested information about referrals from Independent Assessor (IA) to the Student Loans Company (SLC). The Department for Education (the DfE) originally refused the request citing section 12 of FOIA but reconsidered its position at internal review providing the information it held in scope of the complainant's subsequent refined request.
2. The Commissioner considers that on the balance of probabilities, the DfE did not hold any further information in scope of the refined request.
3. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

4. On 21 October 2024, the complainant wrote to the DfE and requested information in the following terms:

“I want a Foi request concerning student loans company and IA referrals. I want to know how many SLC complaints that have come through the IA where the IA has attacked, belittled and judged the individual who made the complaint. Can I also have the last 200 IA responses to complaints made against the Student loan company. Obviously excluding personal information is fine. I expect this within 20 days or I'll file with the ICO.”
5. The DfE responded on 28 October 2024 stating that in order to consider the request it had conducted a sample search which resulted in the citing of section 12 to refuse the request as it stood. DfE requested clarification as to the wording of part 1 of the request and stated that this was required in order for it to be able to identify and locate the relevant information.
6. The complainant refined their request to information concerning a named individual assessor and made further enquiries outside of the scope of FOIA.
7. On 20 November 2024 the DfE provided its response regarding the disclosure of information in scope of the refined request. This consisted of 16 responses to complaints written by the named assessor which were provided to the complainant with personal data redacted under section 40(2) of FOIA, as suggested by the complainant within their original request.

Scope of the case

8. The complainant contacted the Commissioner on 10 January 2025 to complain about the way their request for information had been handled.
9. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part I of FOIA.
10. With respect to the concerns raised by the complainant which are the subject matter of this decision notice, the analysis below considers whether, on the balance of probabilities, the DfE holds further information in scope of the request.

Reasons for decision

Section 1 - general right of access to information held by public authorities

11. Under section 1(1) of FOIA, anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.

The complainant's view

12. The complainant believes that the DfE should hold more information in scope of the request considering the number requested opposed to those disclosed:

"I didn't get any of the information I need. I got a couple of reports but nearly everything was redacted. I wanted 200 reports."

13. The Commissioner recognises that the complainant believes that the DfE should hold further information in scope of their request and that the DfE had provided a limited number of reports which were redacted. However, given the above and clarification provided, 200 reports were not the scope of the request, as this had been refined to reports concerning a named individual assessor (16), not all reports (200).

The DfE's view

14. The DfE further explained that it had received correspondence from the complainant in the following terms: "You have not given me all the information I asked for. A couple of reports is not 200. What are you hiding? I expect my request to be completed."
15. In its response to the complainant on 20 November 2024, the DfE explained that: "Following clarification of your original FOI request which we treated as a new request on 28 October 2024, you asked for the last 200 Independent Assessor (IA) reports, and of these, only those that were written by (name redacted). In your original request you also identified that you were only interested in IA responses to complaint cases made to the Student Loans Company. Of the last 200 IA reports, we therefore identified 16 responses to complaints (excluding your own) written by (name redacted). All of those 16 reports were released to you with personal information redacted under section 40(2) of the FOI Act."
16. During the Commissioners investigation, the DfE explained that:

"Given that the focus of the request was only for reports written by (name redacted), this is exactly what the department provided, i.e. the 16 of the last 200 reports that were written by (name redacted), and we released these 16 reports to the requester, albeit with redactions to personal info. The other 184 reports were not written by (name redacted) and were therefore out of scope."

17. The DfE further explained that it had carried out searches of its electronic database and files held centrally which are used to hold the type of information in scope of the request. It used keyword searches including the name of the assessor of interest to the complainant as well as 'compliant' reports within the timeframe, which returned the 16 reports provided to the requester. No other information in scope of the request was present.

The Commissioner's view

18. In cases where there is some dispute about the information that a complainant believes might be held by a public authority, either directly or on behalf of another party, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
19. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
20. In reaching his decision in this case, the Commissioner has taken account of the views put forward by the complainant. He has also considered the explanation the DfE provided as to why further information is not held.
21. Based on the evidence provided to him, which included appropriate and relevant searches of its relevant databases, the Commissioner is satisfied that, on the balance of probabilities, the DfE did not hold any further recorded information falling within scope of the request.
22. He is therefore satisfied that the DfE has complied with the requirements of section 1 of FOIA in this case.

Right of appeal

23. 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)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 936 8963
Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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