

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 November 2014

Public Authority: Financial Ombudsman Service

Address: South Quay Plaza
183 Marsh Wall
London
E14 9SR

Decision (including any steps ordered)

1. The complainant requested information concerning her complaint against the bank which stopped payment of her late husband's pension. The Financial Ombudsman Service (FOS) stated that it had provided all the information that it held.
2. The Commissioner's decision on the balance of probabilities is that FOS does not hold any further information, within the scope of the request. The Commissioner also finds that FOS breached section 10(1) of the FOIA because of the late response.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 28 April 2014 the complainant requested information concerning a pension decision:

'I am writing to request information under the Freedom of Information Act 2000. In order to assist you with this request, I am outlining my query as specifically as possible.

With all the copies sent, of original Scottish Widow's contract my husband negotiated, and copy of death certificate, I would require an

explanation of your investigation where Scottish Widow's contract stated that his payment of £80 a month was for life and upon his death, the widow received his pension, as the law states any organisation who takes over a corporation must honour existing contract to the letter. On studying my husband's payments, Lloyds/TSB decreased the payments month after month, they also were out a year, claiming his death 10 years ago, when it was nine,...

I would be interested in any information held by your organisation regarding my request as to how? you investigated all paperwork sent of original documents...'

5. On 18 June 2014, FOS provided the complainant with general factsheets and links to their website to explain how it approaches and investigates complaints including what factors are taken into account and how decisions are reached. In particular, it explained that

'Information about how your paperwork was considered and investigated and what information was relied upon is set out in the adjudicator's opinion letter (dated 13 June 2013) and the ombudsman's final decision (dated 24 April 2014). You should already have copies of these documents, but if you would like us to send you a further copy please let us know.

We hold no other information on how your paperwork was investigated.'

6. Following a complaint to the Information Commissioner, FOS was asked to undertake an internal review of the FOIA request and the outcome was sent to the complainant on 7 August 2014.
7. FOS explained that all information requests made under the Freedom of Information Act to the public authority are dealt with by a specialist team, the Information Rights team, and are not answered by individually named ombudsmen and adjudicators even if the information request is addressed to them as individuals.
8. The review restated that the explanation of how FOS reached the decision on the complaint was *'in the adjudicator's opinion letter and the ombudsman's decision letter which have already been sent to you.'* It maintained that FOS held no further information in relation to the FOI request.
9. FOS offered to send the complainant a copy of her complaint file to provide context to the reasoning set out in the ombudsman's decision, but the complainant declined this.

Scope of the case

10. On 6 October 2014 the complainant contacted the Commissioner.
11. The Commissioner considers the scope of the case is to determine if FOS holds any further information on how FOS investigated the complaint about the pension decision.

Reasons for decision

12. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
13. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. The Commissioner must decide whether, on the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
14. In this case, to determine if FOS holds any further information the Commissioner asked FOS to explain the searches it carried out for this information and how the information would be held.
15. FOS advised the Commissioner that FOS was set up by Parliament to resolve disputes informally between consumers and businesses. When a consumer calls the service to make a complaint about a financial business, a case file is set up on the electronic case file system, which is named 'Clipper'. The consumer is then provided with a unique case reference number, which can be entered into Clipper to bring up the complaint file.
16. Until the beginning of 2014, the electronic case files were also accompanied by a paper based file. The paper file contained any correspondence received by post, physical copies of documents and any notes made on the complaint file.
17. In this case, the complainant brought a complaint to FOS in March 2013, and therefore is a hybrid file of both electronic and paper files. All information about the complaint and the freedom of information requests are stored on the complaint file. Any information about the

ombudsman or the adjudicator's findings or deliberations would either be on clipper or on the paper file.

18. Both the adjudicator and the ombudsman reached their conclusions based on the information supplied by the complainant and Lloyds Bank Plc, and their technical knowledge. Having reviewed the paper and clipper files, there are no notes or discussions by either the adjudicator or the ombudsman in relation to the complainant's late husband's pension. The information about the complaint file and the decision making would only be found on the paper file or the clipper history.
19. FOS is satisfied that the reasons and findings are not mentioned anywhere other than in the adjudicator's opinion letter and ombudsman's determination. This was explained to the complainant in the initial response and internal review.
20. Having considered FOS's responses to the Commissioner's investigations, the Commissioner is satisfied that, on the balance of probabilities, FOS does not hold any further information within the scope of the request.
21. The Commissioner understands that the complainant wishes to receive an answer from the individual Ombudsman. However, both FOS and the Commissioner have explained that the information request is made to the public authority, and answered by FOS, not a particular individual.
22. As the Commissioner's decision is that the information is not held, the Commissioner does not require FOS to take any steps.

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)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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.

Signed

Pamela Clements
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Wilmslow
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SK9 5AF