

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 September 2016

Public Authority: Parliamentary Health Service Ombudsman
(PHSO)

Address: Millbank Tower
Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. The complainant has requested information relating to an extract from the PHSO Board meeting 28 July 2015. PHSO provided the complainant with some information relevant to part 3 of the request, but confirmed that it did not hold much of the requested information under section 1(1)(a) FOIA.
2. The Commissioner considers that the PHSO was correct to confirm that it does not hold much of the requested information under section 1(1)(a) of the FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 13 February 2016 the complainant requested information of the following description:

"This is an extract from your the PHSO Board meeting 28 July 2015...

7.2 Summary of Board discussion:

Staff turnover remains high at 16.4%/13.1% (total/permanent staff), though regretted loss runs at 2%.

http://www.ombudsman.org.uk/_data/asset...

Referring to the term used at this meeting about staff leavers, I would like to know:

1. How does the PHSO determine what is a 'regretted loss'?(the 2 percent)

What criteria and terms are used to ascribe it?

2. How does the PHSO determine a 'non-regretted' loss? (the 14.4 percent)

What criteria and terms are used to ascribe?

3. Are there any more categories used to describe leavers?

4. I see that Dame Julie Mellor and CEO Mick Martin is at pains to congratulate PHSO staff in the Annual report. Therefore why is it the case that the regretted losses are so low (7-1) in comparison to the non-regretted losses?

5. Was departing [named individual] a 'regretted', or 'non regretted loss, after the PHSO found out that it had overspent its government awarded budget?"

5. On 10 March 2016 PHSO responded. It denied holding the requested information.
6. The complainant requested an internal review on 10 March 2016. PHSO sent the outcome of its internal review on 4 May 2016. It upheld its original position.

On 4 May 2016 the complainant made a new request for information:

"1. Please supply the leavers forms - which you have described in your response, to see if any light can be thrown on the use of the term 'unregretted leaver', or other HR terms used to describe departing employees.

The logical argument for this request is that all the PHSO board members must of fully understood the term, 'unregretted leavers' - since it was not questioned by a single board member.

And it is part of the board members remit to query terms which they do not understand - to ensure that the PHSO complies with its expected good governance.

Otherwise the PHSO's governance could be said to be at question - much as it was by PACAC, after its the recent overspending.

2. Please also supply the blank leavers form - as described.

The scope can be narrowed to two months - March and April- if there are too many leaving forms to process within the FOIA financial time frame - as I gather that the PHSO employees are still leaving at a rate of around 20percent a year, which would mean - on average - seven a month. That should give a small representative sample.

The same criteria /scope follows on from the request above - if this request is defined as a following request - from the information outlined in [named individual's] response above.

If this is considered is a new request, then please include the criteria stated from the original request and by [named individual's] response to it and my request for following information above.

Regretted leavers - departed employees leaving forms from February, March, April 2016 and blank leavers' form/ forms."

7. On 7 May the complainant explained why she was not satisfied with the internal review into the request of 13 February 2016:

"This is an extract from your the PHSO Board meeting 28 July 2015...

7.2 Summary of Board discussion:

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Point 3.

These are two distinct parts of the Request, presumably the information requested after the review will supply the answer to the request, which seems to have been omitted from both the response and review.

Yet it is stated that leaving categories exist in HR People and Talent files - which clearly they must, as an unregretted leaver is one of them.

There must also be some HR internal guidance to HR employees as to how to ascribe a leaver to the category to which they belong."

8. In relation to the follow up email of 7 May 2016 (which repeated the 13 February 2016 request), on 24 May 2016 the PHSO responded. It confirmed that it did not hold this information.
9. On 2 June 2016 the PHSO responded to the request made on 4 May 2016. It confirmed that it did not hold information relating to the term 'regretted' or 'unregretted loss' but did provide her with information relating to the PHSO'S exit policy. It withheld the reflections of individual staff members when leaving PHSO as it considered that the third party personal data exemption under section 40(2) FOIA would apply. On the same date the complainant asked for an internal review.
10. On 30 June 2016 the PHSO provided the complainant with the result of the internal review. On seeking advice from PHSO's HR Team, the FOI/DP Team was provided with a list of categories used to describe staff who had left the organisation (it provided this to the Commissioner). This does not include the terms 'regretted' or 'unregretted'. At this point, though, it became clear to the PHSO that it had not fully complied with the request of 13 February 2016 about what other terminology was used by PHSO to describe staff leavers. It had therefore identified an oversight regarding its response to question three of the original request. It confirmed that PHSO does ascribe categories to staff who have left employment, and these were provided to the complainant.

Scope of the case

11. The complainant contacted the Commissioner on 24 May 2016 to complain about the way her request for information had been handled.
12. The Commissioner confirmed with the complainant that her investigation would look at whether the PHSO was correct when it said that it does not hold the information requested on 13 February 2016.

13. In relation to the request of 4 May 2016, the complainant had yet to receive the result of the internal review and therefore the Commissioner was not in a position to progress with this complaint until the review was complete. The Commissioner is aware that the complainant received the result of the internal review on 30 June 2016 and has not subsequently submitted a further complaint to the ICO about this request.

Reasons for decision

14. Section 1(1)(a) of 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 of the description specified in the request".
15. After reviewing its handling of this matter, the PHSO confirmed that it is satisfied that it holds no recorded information in relation to either the terms 'regretted' or 'unregretted' in relation to staff who have left the organisation. Whilst it acknowledged that the PHSO's previous HR Director had used the terminology 'regretted loss' in the 2015/16 Q1 Board meeting, this is not something which PHSO routinely calculates or records. It is satisfied that the PHSO does not hold any information which underpins the statement made by the then Director of HR about regretted loss as it's electronic documents management system yields no relevant results in relation to this term.
16. It has also confirmed that it did discover that information was held in relation to part 3 of the request of 13 February 2016 and this was provided to the complainant on 30 June 2016.
17. The Commissioner considers that whilst the term 'regretted loss' has been used by the PHSO's then Director of HR, the PHSO has clearly explained that 'regretted' and 'unregretted' loss are not official terms used within the PHSO. It has also conducted an electronic search to ensure that no information is held that could answer the request. It has found some further information held relating to other terminology used by PHSO to describe staff leavers which would answer part 3 of the request and this information has been provided to the complainant. On the balance of probabilities, the Commissioner therefore considers that no further information is held by the PHSO that could answer the request of 13 February 2016.

Right of appeal

18. 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

19. 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.
20. 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

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