

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 2019

Public Authority: Parliamentary and Health Service Ombudsman
Address: Millbank Tower
Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. The complainant has submitted a request for an organogram of its public-facing staff to the Parliamentary and Health Service Ombudsman ('PHSO'). PHSO provided some general information, applied section 21(1) of the FOIA to other information (reasonably accessible information) and said it does not hold the specific information the complainant has requested.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities PHSO does not hold the specific information the complainant has requested and has complied with section 1(1)(a) of the FOIA with regards to this information.
 - The information that PHSO holds which is broadly related to the complainant's request is exempt information under section 21(1).
3. The Commissioner does not require PHSO to take any remedial steps.

Request and response

4. On 6 July 2018 the complainant submitted a request to PHSO through the *WhatDoTheyKnow* website in the following terms:

"Please provide an 'organisational family tree' of the PHSO's public facing officers with their job titles, together with an brief summary of their role and responsibilities."

5. PHSO responded on 24 July 2018. It said it publishes an organogram with job titles/roles of public facing officers on its website within its publication scheme. It seemed to suggest it was providing a web link to that page. PHSO applied the exemption under section 21 of the FOIA to this information as it said the information was already accessible to the complainant. PHSO said it does not hold an organogram with a more detailed summary of roles and responsibilities.
6. The complainant wrote to PHSO 24 July 2018. She said the link that PHSO had appeared to provide did not work. The complainant also clarified that she was requesting an organogram that included all public facing officers, not just committee members and officers. Finally the complainant requested a brief description of public facing officers' job descriptions, which she said she had originally requested.
7. On the same day PHSO responded. It confirmed that it had sent a link to the complainant and suggested it might not have appeared to be an active link due to it being sent through *WhatDoTheyKnow*. PHSO provided the full link and also provided a link to its publication scheme, from where PHSO said the departmental organograms it holds are available.
8. The complainant requested an internal review on 28 July 2018. She said she had requested information that PHSO holds on file and not what it had already published. PHSO provided a review on 13 September 2018. Having re-considered the matter PHSO confirmed that, with regard to the first element of the request, it does not in fact hold an organisational family tree of its 'public facing officers' and that there is no recorded information in relation to a role being specifically 'public facing'.
9. PHSO acknowledged that, in line with its duty under section 16 of the FOIA to provide applicants with advice and assistance, it could have done more. PHSO then provided some broad information about the different teams within PHSO that deal with complaints and it summarised the particular roles within those teams. In the Commissioner's view this satisfies the second element of the request for a brief summary of roles and responsibilities.

10. Finally, PHSO advised the complainant that if she required details of any position at PHSO she was able to make a request for a summary or job descriptions of any particular role.
11. Further correspondence between the complainant and PHSO followed until, on 12 October 2018, PHSO again advised that there is no recorded information in relation to a role being specifically 'public facing'. It confirmed that it had provided a link to its departmental organograms (which indicates to the Commissioner that this is the only recorded information PHSO holds falling within the scope of the complainant's request) and referred the complainant back to its response of 24 July 2018.

Scope of the case

12. The complainant contacted the Commissioner on 15 October 2018 to complain about the way her request for information had been handled.
13. The complainant confirmed that the focus of her complaint was that she disputes that PHSO does not hold an organogram of (all) its public facing staff, with job titles.
14. Having received and considered PHSO's submission, and considered all the circumstances, the Commissioner's assessment was that PHSO does not hold the requested information. She communicated her assessment to the complainant and invited the complainant to withdraw her complaint. The complainant preferred to progress to a decision notice. She remains unconvinced that PHSO does not hold the specific information she has requested. The complainant has also told the Commissioner that the link that PHSO provided does not work and so she has not been able to access particular information ie the departmental organograms.
15. The Commissioner's investigation has focussed on whether PHSO complied with section 1(1) with regard to the specific information the complainant has requested. She has also considered whether PHSO can rely on section 21(1) with regard to other, broadly related, information that it holds.

Reasons for decision

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

16. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled (a) to be told if the authority holds the information and (b) to have the information communicated to him or her if it is held and is not exempt information.
17. In its submission to the Commissioner PHSO has confirmed it does not hold the specific information the complainant has requested ie a detailed organogram of its public facing staff. It has also confirmed that it is not obliged to hold this information ie it has no reason to hold it.
18. PHSO says it provided the complainant with a link to the full (departmental) organograms it does hold. It confirmed that this particular information is therefore already reasonably accessible to the complainant online and is exempt information under section 21 of the FOIA. This is discussed further below.
19. PHSO goes on to say in its submission that at internal review it recognised that, although it does not hold an organogram of 'public facing officers', it does have teams who communicate with members of the public through its complaints process. PHSO says it had provided the complainant with a brief summary of roles within those teams in order to be helpful and to comply with section 16 of the FOIA. PHSO noted that it also advised the complainant that, should she wish to receive a summary or job description of any role contained within its published organogram, she could submit a new request for that.
20. In considering the request, PHSO says it made enquiries with its internal Human Resources department. This department is responsible for holding job descriptions for PHSO staff and would be the most likely team to hold information within the scope of the request. That department confirmed that the specific information the complainant has requested is not held.
21. The Commissioner has considered PHSO's submission and has noted the points the complainant has made in correspondence to her. However these points focus on the complainant's belief that PHSO *should* hold this information - that is an organogram of public facing staff - in order to function effectively. As she advised the complainant, the Commissioner's role is not to consider whether a public authority should hold information, but whether it does or does not hold information (on the balance of probabilities). In this case the Commissioner is satisfied

that PHSO does not hold the specific information the complainant has requested.

Section 21 – information accessible to the applicant by other means

22. Under section 21(1) of the FOIA information which is reasonably accessible to an applicant otherwise than under section 1 is exempt information.
23. Section 21 provides an absolute exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.
24. PHSO applied section 21 to the departmental organograms that are published on its website. During her investigation the complainant has indicated to the Commissioner that she has not been able to access this information through the links that PHSO provided to her.
25. As detailed above, on 24 July 2018 PHSO provided two web links to its published departmental organograms to the complainant through *WhatDoTheyKnow*. It provided what it described as “the full link” and also provided a link to its publication scheme, from where PHSO said the departmental organograms it holds are available.
26. The Commissioner has noted that the first of these links leads to a page that is now unavailable. However, the second link leads to PHSO’s publication scheme from where, under the headings ‘Who we are and what we do’ and ‘Organisation chart’, the departmental organograms are available¹. The Commissioner has also subsequently visited PHSO’s website directly and was again able to access its departmental organograms from through that route.
27. The Commissioner has reviewed the complainant’s correspondence with PHSO up to 12 October 2018. She has noted that although the complainant may have advised the Commissioner that a particular link did not work, the complainant did not advise PHSO at the time of the request that she had been unable to access the departmental organograms through the links PHSO had provided on 24 July 2018.

¹ https://www.ombudsman.org.uk/sites/default/files/201807%20-%20Organogram%20v.3.5_0.docx

28. Taking a pragmatic approach, the Commissioner is satisfied that at least one of the links that PHSO provided was functioning at the time it was sent. Given that the complainant clearly has access to the internet the Commissioner considers that it was reasonable for PHSO to assume that the organograms would be accessible to the complainant through its website. The complainant had not advised PHSO otherwise at the time of the request. The Commissioner therefore finds that PHSO can rely on section 21(1) with regard to this particular information.

Right of appeal

29. 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

30. 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.
31. 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

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