

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 May 2021

Public Authority: Ministry of Housing, Communities and Local Government

Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested from the Ministry of Housing, Communities and Local Government ("the MHCLG") information about the actions that may be taken by the 'Architects Registration Board' ("the ARB"). The MHCLG denied that any information was held.
2. The Commissioner's decision is that no information is held, but that the MHCLG breached section 10 by issuing a response outside the time for compliance.
3. The Commissioner does not require the MHCLG to take any steps.

Request and response

4. On 19 March 2019, the complainant wrote to the MHCLG and requested information in the following terms:

Reference your Complaint Response (Ref: 3899364) dated 29th October 2018; please state which action (or actions) by the ARB are being referred to in the opening paragraph.

5. The 'opening paragraph' referred to in the request contains the following sentence:

The Department's Complaints Process does not cover actions by other sponsored bodies, such as the Architects Registration Board (ARB)...

6. The MHCLG responded on 16 July 2020 but did not clearly confirm or deny whether information was held.
7. On 16 July 2020, the complainant wrote to the MHCLG and asked it to undertake an internal review.
8. Following an internal review, the MHCLG contacted the complainant on 23 October 2020. It denied that information was held.

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his request for information had been handled, and specifically to dispute that the MHCLG held the information he had requested.
10. The Commissioner has considered in this decision notice whether the MHCLG holds the requested information.

Reasons for decision

Section 1 – General right of access to information

11. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

The complainant's position

12. The complainant has informed the Commissioner that he has made a complaint to the MHCLG, and that the MHCLG has failed to address it on the basis that it relates to actions by another public authority (the ARB).
13. The complainant argues that the MHCLG must therefore hold some internal email correspondence in which it considers its ability to handle his complaint, and specifically whether the complaint relates to an action by the ARB.

The MCHLG's position

14. The Commissioner has reviewed the request as it is written – in conjunction with the related sentence – and considers that the only reasonable interpretation of it is that it seeks any document that lists (or otherwise describes) the actions that may be taken by the ARB.
15. The MCHLG has informed the Commissioner that it interprets the request in the same way. The MCHLG has further informed the Commissioner that it is not aware of any such list being held, and has reviewed its documents relating to the ARB to verify this.

The Commissioner's conclusion

16. The Commissioner perceives that the complainant has inadvertently asked for information different to that which he actually seeks – which appears to be the internal emails relating to his complaint. However, the Commissioner is limited to considering the request as it is written.
17. Having considered the steps taken by the MCHLG, the Commissioner is satisfied that proper searches have been undertaken in response to the request. It is also recognised that the ARB is a separate public authority, and in such a context, the Commissioner would not reasonably expect one authority (such as the MCHLG) to hold a comprehensive list - or other document - that describes the actions another authority (such as the ARB) may undertake.
18. On this basis the Commissioner has concluded that the requested information is not held.

Section 10(1) – Time for compliance

19. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) within 20 working days following the date of receipt. In this case the MCHLG did not response until significantly outside the time for compliance.

Right of appeal

20. 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@justice.gov.uk

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

21. 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.
22. 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

Andrew White
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