

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 February 2017

Public Authority: Parliamentary and Health Service Ombudsman

Address: Millbank Tower
Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. On 6 March 2016, the complainant requested information from Parliamentary and Health Service Ombudsman (PHSO) about complaints that it has received. On 22 November 2016, PHSO confirmed it holds related information and released this to the complainant.
2. The Commissioner's decision is that PHSO has breached section 10(1) of the FOIA because it did not comply with section 1(1) within 20 working days.
3. PHSO has now provided the complainant with a response and the Commissioner therefore does not require the public authority to take any steps.

Request and response

4. On 2 March 2016, the complainant wrote to PHSO and requested information in the following terms:

"1/ On a yearly basis, how many complaints do you receive like ours over pensions, banks, loan companies etc., and their various regulators and ombudsman. Let's say over the past 15 year.

2/ On a yearly basis, how many do you refuse on restrictive and unnecessary "laws", like you did ours. Again over the past 15 years.

3/ On a yearly basis, how many complaints have had a satisfactory result with the complainant being found correct and justified or the complainant getting the correct compensation. Again over the last 15 years."

5. PHSO provided a response on 9 September 2016. In this correspondence PHSO addressed concerns the complainant had about a separate service complaint and responded to the requests for information above.
6. PHSO said it did not hold information within the scope of request 1, and provided the complainant with a web link to the 'Complaints' area of its website with relation to requests 2 and 3.
7. The complainant wrote to PHSO on 19 September 2016, expressing dissatisfaction with the response he had received.
8. In a further response on 20 October 2016 PHSO confirmed that it had responded to the complainant's requests for information and provided the response again.
9. The complainant remained dissatisfied and in correspondence dated 22 November 2016, PHSO now told the complainant that it had considered his request under the FOIA. It confirmed it held related information. It released information relevant to requests 1 and 2, for the years 05/06 to 15/16, in a table form. PHSO provided a narrative response to request 3.
10. PHSO advised the complainant that if he remained dissatisfied he could request an internal review. As far as the Commissioner is aware, the complainant has not requested a review.

Scope of the case

11. The complainant contacted the Commissioner on 9 December 2016 to complain about the way his requests for information had been handled. The complainant was not satisfied with the length of time it had taken PHSO to respond to his requests. He is also concerned about the format in which the information PHSO released was presented.
12. The Commissioner's investigation has focussed on whether PHSO complied with its obligations under section 10(1). She has considered the format concern separately, under 'Other matters'.

Reasons for decision

Section 10 – time for compliance

13. Under section 1(1) of the FOIA, anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the requested information and (b) to have the information communicated to him or her if it is held.
14. Section 10(1) says that an authority must comply with section 1(1) as soon as possible and within 20 working days.
15. In this case, the complainant submitted his request on 2 March 2016. PHSO did not provide a response to the request until 9 September 2016 and did not provide a response that meets the requirements of section 1(1) of the FOIA until 22 November 2016. This is a clear breach of section 10(1).

Other matters

16. The complainant has confirmed that he has been able *to 'decode enough of the information'* that PHSO released to him on 22 November 2016, for his purposes. However, he has told the Commissioner that he is not satisfied that PHSO released this information to him in the form of a table. He considers that if simple numbered questions are asked under the FOIA then they should be answered in the same format. This is not the case.
17. Section 11 of the FOIA places certain duties on a public authority as regards how they provide information in response to a FOIA request. However, the requester must express their preference *at the time of making their request*. In this case, the complainant had not indicated to PHSO how he wanted the information to be presented to him when he submitted his request.
18. Given that the requested information covered a period of 11 years, and a number of measures, PHSO made the assessment that the information would be most clearly presented in tabular form – the Commissioner considers this to have been a reasonable assessment. Nevertheless, the option of asking PHSO to review this matter may still be available to the complainant if he chooses to pursue this further.

Right of appeal

19. 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

20. 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.
21. 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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