

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2019

Public Authority: Local Government and Social Care Ombudsman
Address: PO Box 4771
Coventry
CV4 0EH

Decision (including any steps ordered)

1. In a request to the Local Government and Social Care Ombudsman ('the LGO') the complainant has requested information about its complaints processes. The LGO's position is that the relevant information it holds is published on its website and that the information is therefore exempt from disclosure under section 21(1) of the FOIA as it is accessible to the complainant by other means.
2. The Commissioner's decision is that the information that the LGO holds that is relevant to the complainant's request is accessible to the complainant on its website and that section 21(1) is therefore engaged.
3. The Commissioner does not require the LGO to take any remedial steps.

Request and response

4. On 3 September 2018 the complainant wrote to the LGO and requested information in the following terms:

"Both the response below and the letter dated 27 July 2017 from [Individual 1] refer to two processes for dealing with a complaint could you state which of these processes were used in the original complaint which was investigated initially by [Individual 2] and completed by [Individual 3] and provide documentation that details each phase of each process"

5. The LGO responded on 4 October 2018 and provided some general information on how complaints submitted by the complainant had been considered.
6. The complainant requested a review on 15 October 2018 and provided clarification as to the information he is seeking, as follows:

"Please provide copies of the rationale contained in LGO Policies, Assessment notes, guidance notes or by any LGO officer that supports the decision that none of the issues below, neither singularly or together, are unworthy of investigation.

1. Fraudulent documents to value of £20,000

2. Wasted £3.5M confirmed by High Court Judge...

...13. Manipulated a £10,000 report into community facilities for personal advantage

7. Following an internal review the LGO wrote to the complainant on 29 October 2018. It said that information falling within the scope of his request is published on its website and, as such, the requested information is exempt information under section 21 of the FOIA. The LGO provided a hyperlink to the relevant area of its website.
8. As a result of the Commissioner's investigation the LGO provided the complainant with a further response on 25 June 2019. It clarified that the relevant information that is available on its website are, specifically, documents named 'Investigation Manual', 'Assessment Code' and 'Assessment Manual'. The LGO again provided the hyperlink from which these three documents can be accessed.

Scope of the case

9. The complainant contacted the Commissioner on 14 December 2018 to complain about the way his request for information had been handled.
10. The Commissioner's investigation has focussed on whether the LGO can rely on section 21(1) to withhold the requested information.

Reasons for decision

11. On 3 September 2018 the complainant asked for information on which of two processes the LGO had used to deal with particular complaints. On 15 October 2018 he asked for the rationale in particular LGO policies

that supports a particular decision the LGO had made [the Commissioner assumes about those complaints] as that decision appeared to the complainant.

12. Section 21(1) says that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
13. For section 21(1) to be engaged the accessible information must be what the applicant requested specifically, or it must be the only information an authority holds that falls within the scope of an applicant's request.
14. Section 21 provides an absolute exemption. This means that if the requested or relevant 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.
15. In its submission to the Commissioner the LGO has confirmed that in its response to the complainant it had advised which of its two processes had been used when considering the complainant's two complaints. It had therefore addressed the first part of his request. LGO has confirmed that it is withholding the requested documentation that details each phase of each process under section 21(1).
16. The LGO considers that the information published on its website – that is, the three documents referred to at paragraph 8 - address the complainant's request for documents that detail each phase of the two processes that LGO had used when assessing his complaints.
17. The LGO has confirmed that the three documents were published on its website at the time of the request. Whilst acknowledging it may not, initially, have identified the specific, relevant documents by name, the LGO says it provided the complainant with a hyperlink to the relevant area of its website where the relevant information it holds is published.
18. It says it was reasonable to expect the complainant to be able to access the information it had referred him to because, in previous correspondence the complainant made reference to the content of the LGO's website and asked where he could locate particular information. The LGO considers this indicates that the complainant can use the internet and is familiar with its website. In addition, the complainant has not made LGO aware that he has difficulty accessing information on the internet.
19. The Commissioner has reviewed the three documents and considered the complainant's request, his correspondence to her and all the circumstances of this complaint. She is satisfied that, together, the three documents published on the LGO's website provide comprehensive

guidance on how the LGO assesses and investigates complaints, and reaches decisions. The Commissioner notes that the information is published on an area of LGO's website called 'Staff guidance' and that the LGO advises on this page that the published guidance is produced for its staff but is published in the interests of transparency. The Commissioner is satisfied that this published information addresses the complainant's request and that the complainant can access this information. She has therefore decided that the LGO can rely on section 21(1) of the FOIA to refuse to disclose this information to the complainant in response to his request.

20. The Commissioner has noted the complainant's internal review request to the LGO of 15 October 2018. She considers that the clarification of his original request is conditional ie it is conditional on the LGO accepting as true the 13 statements that appear to be the complainant's own interpretation of a decision the LGO made. The LGO is not obliged to accept these statements as correct. As above the Commissioner is satisfied that information about the LGO's complaints assessment process – which would also address the matter of the 'rationale' it would apply in a general sense – is published on the LGO's website and is exempt information.

Right of appeal

21. 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

22. 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.
23. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF