

Freedom of Information Act 2000 (FOIA) Decision notice

Date: 7 December 2022

Public Authority: Gambling Commission
Address: Victoria Square House
Birmingham
B2 4BP

Decision (including any steps ordered)

1. The complainant has requested information associated with financial assessments carried out on Bet Index Limited. The Gambling Commission (GC) disclosed some of the information it held within scope of the request but withheld information it had previously refused which was subject to an appeal to the First Tier Tribunal (FTT), under section 31(1)(g) of FOIA - law enforcement.
2. The Commissioner's decision is that the Gambling Commission has correctly applied section 31(1)(g) of FOIA to information it is withholding as disclosure would be likely to prejudice the exercise of its functions under sections 31(2)(a), (b), (c), (f) and (g). The public interest favours maintaining this exemption.
3. No steps are required as a result of this decision notice.

Request and response

4. On 20 April 2022, the complainant wrote to the public authority and requested information in the following terms:

"Please provide a copy of all the detailed financial assessments carried out on Bet Index (trading as Football Index) - this should exclude the "detailed financial assessment" referred to by the Chief Executive of the Gambling Commission in a blog post written on the Gambling Commission website (as this information is subject to a separate and ongoing request).

For the purposes of this FOI request, I am defining a "detailed financial assessment" to include anything that includes a review of the **complete balance sheet and / or complete profit and loss account of Bet Index for the purposes of regulatory decision-making.**

In previous correspondence, you have confirmed that you hold complete sets of accounts for Bet Index for three consecutive years and all these documents were received by the Gambling Commission on the same day (11 February 2020). As it is not credible to carry out a "detailed financial assessment" without access to full sets of accounts, it appears extremely unlikely that the Gambling Commission holds any relevant information before this date. Information provided at the initial licensing stage can be excluded as this information also forms part of a separate and ongoing request.

Therefore, please provide all "detailed financial assessments" of Bet Index carried out after 10 February 2020 including all supporting working papers and Gambling Commission sign off."

5. The GC responded on 4 May 2022 and disclosed information in scope of the request but withheld the specific information it had refused which was subject to a FTT decision citing section 31(1)(g) of FOIA as its basis for doing so.
6. The complainant argued that the public interest in disclosure is clear, substantial and overwhelming and disputes any FOIA exemption claimed for withholding information, and that a check to ensure all information in scope has been provided.
7. The GC upheld its original position at internal review.

Scope of the case

8. The Commissioner notes that during his investigation the complainant requested to pause this case pending the outcome of their appeal on a similar request for information at the First-tier Tribunal (Information Rights).
9. The complainant has since communicated their wish for a decision notice to be served on the case.
10. The Commissioner considers he can make a decision on the merits of this case and the public interest considerations at the time of this request.

Reasons for decision

Section 31 – Law enforcement

11. The following analysis sets out why the Commissioner has concluded that the GC was entitled to rely on section 31(1)(g) of FOIA in this particular case.
12. section 31(1)(g) of FOIA allows a public authority to withhold information if its disclosure under the Act would, or would be likely to, prejudice the exercise by any public authority of its functions for any of the purposes specified in subsection (2).
13. The Commissioner accepts that the GC is formally tasked with certain regulatory functions under the Gambling Act 2005.
14. The Commissioner agrees that disclosing the information it has received in the course of its investigations, would be likely to prejudice the GC's functions, for the reasons it has given. First, disclosure would be likely to undermine and circumvent the investigative process and reduce the possibility of any non-compliance being detected. Second, it would result in operators or individuals using the disclosed information to present information in a manner which would avoid further scrutiny. And third, it would undermine the GC's ability to collect accurate information if it were known how the GC assesses investigations.
15. Having considered all the circumstances in this case, the Commissioner has therefore decided that section 31(1)(g), with subsections 31(2)(a), (b), (c), (f) and (g), is engaged. He has gone on to consider the public interest.

Public Interest Test

16. The GC has recognised that there will always be some public interest in disclosure of information to promote transparency and accountability of public authorities, in the specific context of this case, they recognise that there is significant public interest in relation to the collapse of Bet Index and disclosure of the financial information would provide some additional information as to how the GC assessed the operator specifically the types of evidence that was submitted. However, they argue that the GC has robust and effective processes and procedures in place which are utilised when investigating licensed operators. These procedures and processes have been put in place to minimise the risk of an operator not meeting the required standard, ultimately protecting consumers. This demonstrates to the public at large that they can have confidence in the Commission's investigative processes, and the gambling industry as a whole.
17. And, the financial information requested does not materially further the public interest in this matter, it merely provides a snapshot of the financial position of Bet Index at a point in time years prior to its collapse, it does not provide any meaningful information which would further the public interest in understanding how and why Bet Index collapsed or the GC's role in investigating Bet Index. Information is published on the GC's website about the investigative processes to satisfy the public interest, as well as information specific to the collapse of Bet Index. This includes an independent report which runs to nearly 200 pages, which outlines the licensing, compliance, and enforcement of Bet Index in the years it was licensed by the GC. The GC therefore considers this serves any specific public interest in that respect.
18. The complainant has said that they dispute the application of any FOIA exemptions claimed for withholding the information and that the public interest arguments favour disclosure in this case given the substantial and overwhelming effect of the Bet Index collapse being one of the largest scandals in UK gambling history.

The Commissioner's conclusion

19. The Commissioner has reviewed both the complainant's requests and the public authorities' responses. The Commissioner notes that the GC has disclosed some of the information the complainant has requested which satisfies to an adequate degree the public interest in transparency. The Commissioner is satisfied that, at the time of this request, there is greater, wider public interest in the GC being a robust

and efficient regulator of the gambling industry through withholding certain information in this case.

20. Therefore, the Commissioner's view is that the balance of the public interests favours the maintenance of the exemption, rather than being equally balanced. This means that the Commissioner's decision, is that in this case, the exemption provided by section 31(1)(g) was applied correctly.

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: 0203 936 8963

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

Phillip Angell
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