

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 April 2022

**Public Authority:** Financial Conduct Authority  
**Address:** 12 Endeavour Square  
London  
E20 1JN

### **Decision (including any steps ordered)**

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1. The complainant requested information from the Financial Conduct Authority ("the FCA") about the number of Directors and Heads of Department that had been placed on Performance Improvement Plans.
2. The Commissioner's decision is that the FCA breached section 10(1) of the FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days. No steps are required.

### **Request and response**

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3. On 14 February 2022, the complainant wrote to the FCA via the WhatDoTheyKnow website and requested information in the following terms:

"Dear The Financial Conduct Authority,

Please advise the number of Heads of Department and Directors (including Executive Directors) that were placed on Performance Improvement Plans during the following calendar years:

2020

2021

2022 (to the date of the source data provider's response to the FOI team).

For each calendar year please provide the numbers that were put on on Performance Improvement Plans broken down for:

- Managers
- Heads of Department
- Directors (including Executive Directors).

Therefore, the response should show the numbers in each of the three grades, that were placed on Performane Improvement Plans, in each of the three calendar years.

It is of course the case that section 40 cannot conceivably apply, nor any other exemption. Similarly, there are absolutely no grounds for the source data provider to try to use the 'small numbers' provision as it would not make sense under the terms of this request. Additionally, the data would take minimal extraction and section 12 also cannot reasonably apply."

4. The FCA wrote to the complainant on 4 April 2022 and provided a response to their request for information.

### **Scope of the case**

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5. The complainant contacted the Commissioner on 14 March 2022 to complain about the FCA's failure to respond to their request.
6. The Commissioner has considered whether the FCA has complied with its obligations in relation to the time for compliance at section 10 of the FOIA.
7. On 21 March 2022 the Commissioner wrote to the FCA, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
8. Although the FCA provided a response on 4 April 2022, the complainant wrote to the Commissioner on 8 April 2022 and requested that a decision notice be issued.

### **Reasons for decision**

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9. Section 1(1) of the FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
11. From the evidence provided to the Commissioner in this case, it is clear that the FCA did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the FCA has breached section 10 by failing to respond to the request within 20 working days.

## Right of appeal

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12. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. 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.
14. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**