

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 February 2023

Public Authority: HM Land Registry

Address: Head Office
Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. In a five part request, the complainant has requested information about a sickness recording system (known as 'SAP'). HM Land Registry ('HMLR') disclosed information relevant to three parts and has advised it does not hold recorded information within scope of the remaining parts.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, HMLR holds no further recorded information relevant to the complainant's request and has complied with section 1 of FOIA.
3. The Commissioner does not require HMLR to take any further steps.

Request and response

4. On 13 October 2021, the complainant wrote to HMLR and requested information in the following terms:

"1. The old style sickness recording system (SAP). I would like to see the policy document as to how it worked, and a sample employee sickness absence record spreadsheet showing all columns.

2. The categories of sickness under the old SAP system including cold/flu and migraine/stress.

3. Sample SAP employee (self-serve) screens for recording sickness absence.

4. The date when the Fusion system was fully implemented. If there was a period of overlap between SAP and Fusion for sickness absence recording then please give those dates and details of how the overlap worked as to the recording on both systems during that time. Please provide related policy documents/email/staff instructions in this regard. I would be interested in any information held by your organisation regarding my request."

5. The next day the complainant sent a further email to HMLR to request the following information:

"5. The Land Registry stress policy. Please provide a copy and any other related information and state the date it was implemented. If there have been previous editions going back to say 2010, then please provide copies and related information and the dates they were in force."

6. HMLR responded on 10 November 2021. It advised it did not hold recorded information within scope of parts 1, 3 and 4 of the request. HMLR disclosed information relevant to parts 2 and 5 of the request. It said in summary:

1. that HMLR no longer holds policy documents for the previous sickness absence process. Nor did it have a sample employee sickness absence record spreadsheet, however, a redacted sickness absence record was provided as an attachment.
2. the categories of sickness absence under the old SAP system were provided as a list within the body of the response.

3. a sample SAP employee (self-serve) screen for recording sickness absence was no longer held by HMLR and so could not be provided.
 4. HMLR did not hold related policy documents, e-mails and staff instructions about an overlap between SAP and Fusion as there was no overlap of the two systems.
 5. a copy of the current stress policy and a copy of the stress policy from 2016 were provided.
7. Following an internal review, on 9 December 2021, HMLR did locate some additional information which correlated with the information that had already been provided in relation to part 2 of the request. In all other respects, it maintained its original position that the requested information was not held by HMLR.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way their request for information had been handled.
9. During his investigation, the complainant advised the Commissioner that they wished to limit the scope of this complaint to parts 3 and 4 of the request only.
10. The Commissioner has considered whether, on the balance of probabilities, HMLR holds recorded information within scope of parts 3 and 4 of the complainant's request and whether it has complied with section 1(1) of FOIA.

Reasons for decision

11. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
12. FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.
13. In cases where there is a dispute as to the information held by a public authority, the Commissioner will use the civil standard of proof, i.e. the balance of probabilities. In order to determine such complaints, the

Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request. If a public authority does not hold recorded information that falls within the scope of the request, the Commissioner cannot require the authority to take any further action.

14. Accordingly, the investigation will consider the scope, quality, thoroughness and results of the searches, and/or other explanations offered by HMLR as to why the information is not held.
15. The Commissioner will also consider any arguments put forward by the complainant as to why the information is likely to be held (as opposed to why it ought to be held). In the internal review request, the Commissioner notes that the complainant argues that HMLR has "deliberately withheld documents."
16. By way of background, HMLR have explained that an all-staff intranet communication dated 19 October 2018 has been identified that explains key dates for when SAP would be available to staff and when the new Fusion system would go live. Between 5 - 28 November 2018 SAP was closed for access to all staff. From 28 November 2018, Fusion became the new platform for all staff; SAP was available for access to historic records but was no longer operational. At the end of April 2019, SAP access was closed to staff. In May 2019 SAP was decommissioned permanently at HMLR.
17. HMLR advised the Commissioner that it had carried out a search in October 2021 when the request was received and an additional search in early 2023 during the Commissioner's investigation - for information falling in scope of parts 3 and 4 - and HMLR had not identified any relevant information.
18. In May 2019 SAP was decommissioned permanently at HMLR and the request was received on 13 October 2021. In relation to part 3 of the request, the timeline in the paragraph above supports HMLR's position that, at the time of the FOI request for screen shots in part 3, this information was no longer held by HMLR, as HMLR no longer had access to the SAP system. HMLR state that enquiries were conducted to establish if screen shots might still be held within any staff training materials for SAP but they were not. Further, HMLR advised that there was no evidence to suggest that screen shots of the SAP system detailing absence reporting were ever captured. They argue that there is no identified business purpose or retention period defined for screen shots of HR systems.
19. HMLR also advised the Commissioner that, in light of the above timeline, as regards part 4 of the request, there was no period of overlap between

SAP and Fusion for sickness absence recording. The SAP system was frozen so anyone who had to input future data or interim data had to use the new Fusion system when it became available. As there was no overlap, HMLR advised the Commissioner that it held no related policy documents/email/staff instructions about it.

20. The Commissioner has carefully considered the points made by the complainant and HMLR. The Commissioner sees no reason to doubt the HMLR's explanations.
21. Having considered all the circumstances, on the balance of probabilities, the Commissioner therefore accepts HMLR's position that it does not hold recorded information that would address the complainant's request in parts 3 and 4. As such, the Commissioner has decided that HMLR has complied with section 1(1)(a) of FOIA.

Right of appeal

22. 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

23. 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.
24. 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

Jonathan Slee
Senior Case Officer
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Wilmslow
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