

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 22 September 2011

Public Authority: Office of the Legal Services Ombudsman

Address: PO Box 16079
Birmingham
B30 9EF

Decision (including any steps ordered)

1. The complainant has requested information relating to the funding, remit and policies of the Legal Services Ombudsman (OLSO). The OLSO responded and stated that some of the information requested had previously been provided to the complainant. The OLSO also provided a link to funding and expenditure information in its response.
2. The Commissioner's decision is that the OLSO has not been able to provide evidence that it has complied with the requests and provided the information to the complainant. The response the OLSO did provide was outside the statutory time limit of 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Confirm or deny whether information is held in relation to the requests.
 - If information is held, provide it to the complainant.
4. The public authority must take these steps within 35 calendar days of the date of this Decision Notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 5 October 2010, the complainant wrote to the OLSO and requested information relating to its remit and policies in the following terms:

"May I ask when and why these policies, guidances and procedures etc. were destroyed, by whom and on whose orders and, further, if these documents have already been destroyed, how and on what bases or standards or precedents [by whatever name] can or does the OLSO proceed to investigate matters remitted to it?"

6. On 20 December 2010, the complainant contacted the OLSO to ask for "a proper and full response to all requests/questions" and requested the following information:

"I further request any details, documents [by whatever name] that informs me/the public who or which person or organisation has liability or conduct of any claim against you/the OLSO and, further, from where and under what conditions the OLSO receives its funding and how it is spent etc."

7. The OLSO responded on 14 February 2011. It stated that part of the information requested concerning the Ombudsman's powers had previously been provided on 15 April 2009 and that the OLSO had already provided copies of two casework advisory manuals on 19 November 2009. Information relating to the OLSO's funding and expenditure was provided by a link to the published annual report and the OLSO stated that information relating to who has liability or conduct of any claim against the Ombudsman had been provided in the copy of the internal complaints procedure already supplied to the complainant.
8. On 14 March 2011 the complainant requested an internal review. To date the OLSO has not completed an internal review of its handling of the request for information.

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his requests for information had been handled. The complainant was dissatisfied with the response to his information requests, the delay involved in receiving both the response, and the outcome of the internal review and challenged the OLSO's view that information had previously been supplied to him.

10. The Commissioner's investigation focuses on what information is held by the OLSO and what information has been or should be provided to the complainant in order to comply with the request.

Reasons for decision

11. Section 1(1) of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing whether the information is held and, if the information is held, to have it provided to him or her. Section 10(1) requires a public authority to comply with section 1(1) within twenty working days following the receipt of a request.
12. Owing to the failure of the OLSO to complete its internal review, the Commissioner began his investigation by making enquiries to the OLSO regarding what information had previously been provided to the complainant. He asked for copies of any information that had already been disclosed to be made available to him. The Commissioner also made enquiries concerning what information was held by the OLSO pertaining to the request and how this was recorded and searched for.
13. The Commissioner also attempted to visit the link to the annual report provided by the OLSO in answer to the request for funding information; however, the relevant web page had expired.
14. In response to the Commissioner's enquiries, solicitors acting on behalf of the OLSO explained the following:

"The Office of the Legal Services Ombudsman was abolished by the passage of the Legal Services Act 2007. In place of the LSO a completely new organisation, the Legal Ombudsman, was established to handle complaints received from members of the public about the service provided by the Legal profession.

The LSO's office is currently in 'run off' and will formally cease to exist on 31 December 2011. On 3 March 2011, Zahida Manzoor was replaced by John Norton as the LSO.

Mr Norton...was appointed to deal with the 'run off' work as the interim LSO until the abolition of the LSO's office on 31 December 2011.

The LSO's office in Manchester was officially closed in May 2011 and all outstanding LSO matters were transferred to Mr Norton's team in Birmingham. Just prior to the closure of the LSO's office in Manchester, this firm was instructed by the LSO to liaise with the Information Commissioner's Office in respect of this matter..."

15. The firm of solicitors went on to explain that in order to assist with the Commissioner's investigation, it had requested the relevant files from office of the interim Legal Ombudsman in Birmingham. It had been informed that the interim Legal Ombudsman's office could not locate any files relating to the case and adding to that fact, the former staff at the OLSO's office in Manchester were no longer able to assist with the investigation having formally left the employment of the OLSO in May 2011. The solicitors' firm concluded therefore that it was not in a position to be able to respond to the Commissioner's investigation into the OLSO's handling of the information requests.
16. The Commissioner appreciates the solicitors' position and agrees that the investigation cannot be taken any further. However, he also considers that the OLSO has failed to provide him with adequate evidence that all or any relevant information has been provided to the complainant in answer to his requests. For this reason the Commissioner requires the OLSO to take the steps outlined at the start of this Notice to ensure compliance with FOIA.

Other matters

17. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, an internal review has not been completed to date, despite the publication of his guidance on the matter.

Right of appeal

18. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

19. 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.
20. 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

**Alexander Ganotis
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SK9 5AF**