

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 March 2014

Public Authority: The Information Commissioner's Office

Address: Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Decision (including any steps ordered)

1. The complainant has requested disclosure of information about the provision of advice by the Information Commissioner's Office (ICO). The ICO provided the complainant with some information in response to this request but confirmed that it did not hold any further information relevant to the scope of the request.
2. The Commissioner considers that the ICO was correct to confirm that it did not hold any further information, other than that which was provided to the complainant, under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 15 October 2013 the complainant requested information of the following description:

"1. After reading the emails to [named individual] on Hillsborough from ICO employees, could you tell me whether or not the ICO employees give personal advice on a friendly basis to:

All private companies - which are using the information to charge clients for their services?

It is just Stakeholders that receive this free advice?

Or indeed, is just [named individual] favoured in this way, as she seems to have a close personal relationship with [named individual]? (Hi [named individual])

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2. And do ICO employees normally phone private company owners on their business mobiles to give free advice?

3. If indeed, the ICO provides personal advice free to all private companies, is there any mechanism for charging for personal services from named ICO employees?"

On 6 November 2013 the complainant requested information of the following description:

"1. Could you please tell me whether or not the ICO is charging private companies, with paying customers, for their employees' time?

2. And whether or not ICO employees are allowed to develop special relationships with the owners of private companies, so that they consistently service the needs of such private companies - whilst their time is being paid for by the taxpayer?

One such example is the ongoing special relationship between employee DM and P-Pact, as advertised on P- Pacts website."

5. On 12 November 2013 the ICO responded. It provided the complainant with information in response to these requests.
6. The complainant requested an internal review on 13 November 2013. The ICO sent the outcome of its internal review on 6 January 2014. It confirmed that the complainant had made further requests within the request for internal review. It did try to answer these further questions. It confirmed that it does not hold any further information relevant to the original requests.

Scope of the case

7. The complainant contacted the Commissioner on 11 January 2014 to complain about the way her request for information had been handled.
8. The Commissioner has considered whether or not the ICO holds any further information other than that which has already been provided.

Reasons for decision

9. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
10. The ICO explained that it understood the requests to be focused on the relationship that ICO staff have with its stakeholders and the parameters that guide that relationship. It maintained its position, that it has no recorded information in response to these specific requests. It explained that it had pointed the requester to the most relevant policies and procedures, these are the ICO Staff Code of Conduct, the Register of Interests policy and the ICO Communications Policy, and are all available on the ICO website.
11. It went on to explain that the ICO has no business need to hold specific recorded information on "whether ICO employees normally phone private company owners on their business mobiles to give free advice" or "and whether or not ICO employees are allowed to develop special relationships with the owners of private companies, so that they consistently service the needs of such private companies – whilst their time is being paid for by the taxpayer". It said that whilst the manner in which ICO staff conduct themselves, carry out their duties and how they liaise with stakeholders or customers in the course of their roles is very important, it is covered in the general policies provided to the requester. It is something governed by general principles.
12. It said that in light of this it did not conduct extensive searches for the specific information requested because it was clear that it was not held by the ICO. It confirmed that it understood that the requester is concerned about this topic generally but has taken the fact that the ICO does not have policies which cover the explicit points to mean that stakeholders could "use the ICO ethically or non-ethically" or "logically they could run their telephone business via the ICO offices if they wish to do so, get drunk or discriminate racially against an employee – since there is no formal agreement that they do not have to abide by the

same ethical constraints as employees, or bring the reputation of the ICO into disrepute by association”.

13. The ICO explained that this interpretation of the situation is not correct or reasonable. It reiterated that as stated in a follow up correspondence (of 6 January 2014) to the internal review by the ICO reviewer: “We expect stakeholders to deal with us legally and professionally. I assume they expect the same of us. It is not unreasonable – or unusual – to assume that all parties to a business relationship understand the basic standards of behaviour required, without the need to put them in writing.”
14. Furthermore it confirmed that the ICO and its staff are bound by the Code of Conduct; section 59 Data Protection Act 1998 which is a prohibition on disclosure and other policies such as the one covering the Register of interests.
15. The complainant has not provided the Commissioner with any evidence to support the position that the requested information is held.
16. Given the confirmation that the issues contained within the request are governed by general policies (which have been provided to the complainant) the Commissioner considers that on the balance of probabilities the requested information is not held other than that which has already been provided to the complainant.

Right of appeal

17. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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
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