

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 14 July 2016

Public Authority: Office of the Attorney General for Northern Ireland

Address: PO Box 1272
Belfast
BT1 9LU

Decision (including any steps ordered)

1. The complainant has alleged that the public authority has failed to respond to his information requests. The public authority says it has responded to the requests, to the extent that they are valid requests for information under the FOIA. The Commissioner's decision is that the public authority has in fact responded to the complainant's requests. The Commissioner does not require any steps to be taken.

Request and response

2. The complainant applied for an elective transfer to the Office of the Attorney General for Northern Ireland (OAGNI). As part of this process the complainant attended an informal discussion with John Larkin, the Attorney General for Northern Ireland, and Ian Wimpres, the Solicitor to the Attorney General on 14 December 2015. However the complainant was ultimately unsuccessful in his application.
3. On 18 December 2015, the complainant requested the following information from OAGNI (request 1):

"Please advise me:

1. *How many people applied for the post?*
2. *How many people were interviewed for the post?*
3. *How many people who were interviewed for the post were existing full-time Deputy Principals in the Northern Ireland Civil Service?*

4. *If the answers to Q2 & Q3 are different, please explain this discrepancy.*
5. *How many males were interviewed for the post?*
6. *How many females were interviewed for the post?*
7. *How many Roman Catholics were interviewed for the post?*
8. *How many Protestants were interviewed for the post?*
9. *If the answers to Q8 & Q9 do not match the figure in Q2, please explain who else was interviewed for the post.*
10. *How many people who were interviewed for the post was an existing Deputy Principal for at least 5 years, 10 years and 15 years?*
11. *How many people who were interviewed for the post possessed a Post Graduate Degree which contained a Legal discipline?*
12. *How many people who were interviewed for the post possessed a Masters Degree which contained a Legal discipline?*

Finally, please also furnish me with a copy of the handwritten notes which were taken by both panel members during my interview."

4. OAGNI responded on 15 January 2016. OAGNI provided the information at parts 1-6 to the complainant, and advised that it did not hold the statistical information at parts 7-12 of the request. However OAGNI advised the complainant that it could obtain this information from HRConnect, who provided recruitment services to the Northern Ireland Civil Service. Finally OAGNI provided the complainant with the handwritten notes.
5. On 15 January 2016 the complainant confirmed that he would like to receive the information at parts 7-12 of request 1, and requested a typed copy of the handwritten notes as he found them illegible.
6. On 20 January 2016 the complainant submitted another request for information to OAGNI (request 2):

"I would like the following information as part of my FOI or you may treat this request as a separate FOI request.

1. *Why, if one male and two females were getting interviewed for the post, was there not a female representative on the interview panel?*
2. *Please detail and provide me with the documentary evidence to substantiate what interview training Mr Larkin and Mr Wimpres received prior to the above interviews for the post of Private Secretary/Press Secretary.*
3. *Please detail and provide me with the documentary evidence to substantiate what recruitment training Mr Larkin and Mr Wimpres*

received prior to the above interviews for the post of Private Secretary/Press Secretary.

4. Please detail and provide me with the documentary evidence to substantiate what selection training Mr Larkin and Mr Wimpres received prior to the above interviews for the post of Private Secretary/Press Secretary."

7. On 1 February 2016 the complainant asked OAGNI when he would receive the information requested on 15 January 2016 (ie the information at parts 7-12 of request 1, and a typed copy of the handwritten notes. The complainant also requested a copy of the job description for the post he had applied for (request 3).
8. On the same day OAGNI disclosed the information at parts 7-12 of request 1 to the complainant. OAGNI provided the job description (request 3) on 2 February 2016.
9. On 2 February 2016 the complainant requested the following information from OAGNI (request 4):
 - 1. Was I the first, second or third interviewee?*
 - 2. On what date(s) were the other two candidates interviewed and did they attend the AGNI's Office for their interview?"*
10. OAGNI responded to request 4 on the same day, providing the requested information.
11. OAGNI responded to request 2 on 3 February 2016. OAGNI advised that under the elective transfer process candidates may be invited to attend an "informal discussion", but there was no formal interview process. Therefore there was no requirement to have a female representative on the interview panel; nor was there a requirement for interview, recruitment or selection training to be undertaken prior to the recruitment process. Consequently OAGNI did not hold any recorded information relevant to this request. By way of assistance OAGNI provided the complainant with a copy of the elective transfer procedure.
12. On 3 February 2016 the complainant sent a memo to OAGNI. This correspondence, which was dated 2 February 2016, set out at length the complainant's dissatisfaction at not having been successful in his application for a post with OAGNI. The complainant requested that OAGNI respond to various comments he made about his application and the subsequent discussion with OAGNI.
13. In addition the complainant referred to the Code of Practice for Employers issued by the Equality Commission for Northern Ireland, and

asked OAGNI to address his own comments about the extent of OAGNI's compliance with the Code.

14. Finally, within this document the complainant reproduced his request dated 20 January 2016 (ie, request 2 above) and asked when he would receive a reply from OAGNI.
15. On 11 February 2016 OAGNI responded to the complainant, stating that his requests had all been answered. OAGNI further advised that it would not be responding to the complainant's requests for comment and opinion.
16. On the same day (11 February 2016) the complainant complained to OAGNI that some of his questions had not been answered, although he did not specify which questions. The complainant also referred to a request for internal review.
17. On 26 February 2016 OAGNI wrote to the complainant regarding his memo dated 2 February 2016 (sent on 3 February 2016) and his subsequent correspondence of 11 February 2016. Again OAGNI stated that it had answered all of his requests for information. However OAGNI also advised that it considered the complainant's requests to be vexatious within the meaning of section 14(1) of the FOIA.
18. OAGNI also wrote to the complainant on 29 February 2016 to provide him with the outcome of the internal review with regard to request 2. OAGNI maintained its explanation with regard to part 1 of the request, and advised that the two individuals named had not undertaken any training of the description specified at parts 2-4 of the request. OAGNI therefore maintained that it had answered the request, and that it did not hold any further information.

Scope of the case

19. The complainant contacted the Commissioner on 1 and 4 March 2016 to complain that his request remained unanswered after 21 working days. The complainant provided the Commissioner with some, but not all, of the correspondence referred to in the chronology above. From the correspondence provided it was not clear to the Commissioner which request was the focus of the complaint, nor was it clear what information was considered to be outstanding.
20. The Commissioner wrote to the complainant on 8 March 2016 to ask him to clarify which specific request, or requests, he wished to complain about. The complainant responded to the Commissioner on the same day. He did not answer any of the Commissioner's queries, but

complained that the Commissioner was refusing to help him. In the absence of clarification from the complainant the Commissioner contacted OAGNI for copies of the relevant correspondence.

21. Having gone through the correspondence provided by OAGNI the Commissioner contacted the complainant again in an effort to clarify the complaint. The complainant said he had made one request and that OAGNI was refusing to respond to it. However, as set out above the Commissioner considers it evident that the complainant has in fact made several discrete, albeit linked, requests. OAGNI maintains that it has answered these requests.
22. Section 50 of the FOIA sets out the Commissioner's complaint handling duties, and says that any applicant may ask the Commissioner for a decision as to whether or not a public authority has handled a particular request for information according to the requirements of the FOIA. Accordingly, in order to investigate a complaint the Commissioner needs to be clear about what information has been requested, how the public authority has responded, and why the complainant is not happy with that response.
23. The Commissioner would stress that it is for the complainant in any case to provide copies of the relevant correspondence, and to specify their grounds for complaint. Failure to do this it may cause a delay in commencing the Commissioner's investigation, or the Commissioner may not accept the complaint as valid. The Commissioner would recommend that complainants consult the guidance available on the ICO website, or contact the ICO helpline, if assistance is required in order to submit a valid complaint.
24. In light of the above the Commissioner considered the scope of the case to be whether or not OAGNI had in fact responded to the complainant's requests. The Commissioner acknowledges that OAGNI also advised that the requests were vexatious, but since OAGNI stated that it had nonetheless answered the requests, the Commissioner has not made a decision as to the application of section 14 in this case.

Reasons for decision

Section 1: duty to respond to a request for information

25. Section 1 of the FOIA says that public authorities are required to respond to requests for information. The authority is required to disclose recorded information in response to a request, unless an exemption or exclusion applies. Public authorities are not required to provide commentary or explanations that are not already recorded.

26. The complainant in this case has alleged that OAGNI has failed to answer his request. Since he has not specified which request or requests he considers remain unanswered the Commissioner has gone through the complainant's correspondence with OAGNI. The Commissioner has set out in the chronology above the various requests made by the complainant to OAGNI, and OAGNI's responses to those requests. Having considered all the correspondence the Commissioner is satisfied that OAGNI has responded to each of the complainant's requests. OAGNI has provided recorded information to the extent that it is held, and has clarified that it does not hold the remainder of the requested information.
27. The Commissioner recognises that the complainant has personal reasons for making his various requests. He is naturally disappointed that his application was unsuccessful. However the FOIA concerns disclosure to the public, and public interests, rather than any individual's private interests. Therefore, while the Commissioner acknowledges that the complainant wishes to understand why he was not successful, this cannot be considered as a relevant argument in making a decision under the FOIA.
28. The Commissioner notes that OAGNI has refused to engage in discussion with the complainant about his dissatisfaction at the outcome of the selection process. However this falls outside the scope of the FOIA since it does not relate to a request for recorded information. In any event, the Commissioner understands that there are likely to be other routes of complaint or dispute management available to the complainant, such as raising a HR grievance, should he wish to pursue the matter.
29. The Commissioner has also considered whether he could specify any steps that OAGNI could be required to take. However, given the Commissioner's finding that OAGNI has responded to the complainant's requests, there are no such steps to be taken.

Right of appeal

30. 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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.
32. 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

Sarah O’Cathain
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