

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 April 2024

Public Authority: Civil Aviation Authority
Address: Aviation House
Gatwick Road
South West Sussex
RH6 0YR

Decision (including any steps ordered)

1. The complainant has requested information relating to the Air Travel Trust ('ATT'). The Civil Aviation Authority ('the CAA') explained that it doesn't hold the requested information for the purposes of FOIA, and therefore can't provide it.
2. The Commissioner's decision is that, under schedule 3(2) (public authorities), the CAA doesn't hold the requested information for the purposes of FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 20 December 2023 the complainant wrote to the CAA and requested information in the following terms:

"Please provide information held about the company owned and operated by the CAA from Aviation House, named ATT RE MAEL LTD ('ATT').

The nature of the business is listed as 'Activities of head offices.' Can you provide more information about the nature of the business, employees etc?"

5. The CAA responded on 8 January 2024. It refused to provide the requested information because it didn't hold it for the purposes of FOIA. The CAA directed the complainant to a previous decision of the Commissioner's.¹
6. The complainant requested an internal review on 10 January 2024.
7. The CAA provided the outcome to its internal review on 15 January 2024. It upheld its previous position and provided the complainant with contextual information about the ATT, its business and its staff.

Scope

8. For clarity, the Commissioner is satisfied that part 2 of the request, where the complainant has asked for more information about the nature of the ATT and its business, has been complied with. The CAA provided contextual information that answers this part of the request in its internal review outcome.
9. What remains for the Commissioner to determine is whether the CAA's position that any recorded information it holds, in relation to the ATT, isn't held for the purposes of FOIA is correct.

Reasons for decision

Section 3(2) - information held for the purposes of FOIA

10. According to section 1 (general right of access) of FOIA, a public authority is required to provide a copy of the information it holds when requested, unless an exemption applies.

¹ [ic-268851-x5c1.pdf \(ico.org.uk\)](#)

11. Section 3(2) further breaks down what 'information held for the purposes of FOIA' means:

"(2) For the purposes of this Act, information is held by a public authority if—

(a) it is held by the authority, otherwise than on behalf of another person, or

(b) it is held by another person on behalf of the authority."

12. When considering section 3(2)(a), a public authority must consider whether it holds the requested information for its own purposes or if it holds it solely on behalf of another person.

13. As previously discussed, the Commissioner has recently dealt with another similar case, involving a request to the CAA for information relating to the ATT. Paragraph 9 and paragraphs 12 – 15 of IC-268851-X5C1 outline in detail the roles of the CAA and the ATT in relation to the aviation industry. In summary, the CAA's position is that 'the CAA has no statutory functions in respect of the ATT's activities, and that the ATT is a separate and distinct legal entity.'

14. Even if the CAA and the ATT are separate legal entities, the CAA might hold information about the ATT, for the purposes of FOIA, if there is an 'appropriate connection' between the information being requested and the CAA's role and functions as a public authority.

15. IC-268851-X5C1 explored this connection further and the Commissioner asked the CAA to explain:

- the extent to which the CAA has access to the information,
- the degree of control the CAA has over the information, including controlling who has access to it and how it is used,
- the extent to which the CAA uses the information for its own purposes, regardless of whether it was created by a third party,
- the extent to which the CAA had an input in its creation or alteration,
- the extent to which the CAA retains ultimate responsibility over the management of the information, including its retention and deletion, and whether the CAA are merely providing storage, either on its physical premises or on electronic and cloud systems.

16. The CAA explained to the Commissioner:

- information relevant to ATT is not widely accessible by CAA staff, except those CAA employees who are Trustees of the ATT, CAA staff seconded to work exclusively for the ATT and a small number of CAA colleagues supporting the ATT,
- whilst information is held on CAA's systems, it is held, managed and only accessible by those CAA staff who have a supporting or seconded role to the ATT,
- if the CAA were to exercise any control over ATT information, this would only be done upon instruction from the ATT,
- any ATT information doesn't relate to any statutory function or responsibility of the CAA,
- the CAA has no input into the creation of ATT information,
- the CAA retains no responsibility over the ultimate management of this information, relevant records management decisions rest solely with the Trustees of the ATT and the CAA only act under their instruction,
- any ATT information is held on the CAA's systems as, per an agreement between the two parties, the CAA provides the ATT with storage space on its electronic systems.

17. IC-268851-X5C1 explains the remit of both the ATT and the CAA in more detail.

18. The CAA maintains that it has an agreement with the ATT to provide it with administrative services because 'The ATT does not have its own premises, staff or systems, and relies on the CAA to provide all necessary facilities in accordance with that contract.'

19. IC-268851-X5C1 explains the remit of both the ATT and the CAA in more detail and the CAA maintains there is no 'appropriate connection' between the two parties. Their work doesn't overlap and the CAA only holds information relevant to the ATT in accordance with its agreement to provide it with administrative facilities.

20. It goes on to explain that 'any and all documentation, papers, emails, records or financial information pertaining to the ATT can only be held by the CAA for the purposes of fulfilling its contractual obligations as agent to the ATT, and for no other purpose.'

21. The Commissioner is satisfied that the information requested isn't held by the CAA for its own purposes, it is solely held by the CAA on behalf of the ATT.
22. Therefore, on the balance of probabilities the CAA has fully complied with its obligations under section 1 of FOIA. It isn't obliged to disclose any information it doesn't hold for the purposes of FOIA.

Right of appeal

23. 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

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF