

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2015

Public Authority: Legal Ombudsman
Address: PO Box 6806
Wolverhampton
WV1 9WJ

Decision (including any steps ordered)

1. The complainant has requested various information relating to the Legal Ombudsman's investigation processes. The Legal Ombudsman said that it did not hold the information requested by the complainant under section 1(1)(a) FOIA, however it tried to answer the complainant's questions outside of FOIA.
2. The Commissioner considers that the Legal Ombudsman was correct to confirm that it did not hold any information 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 28 December 2014 the complainant requested information of the following description:
 1. Explanation of all the steps that the Legal Ombudsman takes to verify and ensure that information received from Firm(s) Solicitor(s) are accurate true.
 2. The criteria your organisation use to decide whether or not statements made by [employee(s)] Firms solicitors are true or false.
 3. The criteria your organisation use to decide whether or not statements made by complainants are true or false.

4. The characteristics of things that your organisation consider to be concrete evidence that a Firm's Solicitors have told lies or made false statements.
5. Whether or not maladministration includes situations when there is evidence that [employee(s)] Firms Solicitors had told lies or made false statements.
6. What your organisation does when it is presented with concrete evidence that [employee(s)] Firms Solicitors had lied or made false statements about:
 - a. a complainant
 - b. a situation/event
7. What your office does when it finds that a Legal Ombudsman Investigators [caseworkers] has told lies or made false statements about:
 - a. a complainant
 - b. a situation/event
8. The distinguishes between telling lies and giving out false information about:
 - a. individuals
 - b. situatino/event
5. On 22 January 2015 the Legal Ombudsman responded. It denied holding the requested information although it did later write to the complainant outside of FOIA to try to answer the questions he had raised.
6. The complainant requested an internal review on 6 February 2015. The Legal Ombudsman sent the outcome of its internal review on 10 March 2015. It upheld its original position.

Reasons for decision

7. 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".

8. The Legal Ombudsman confirmed that it responded to the complainant on 22 January 2015 explaining that under the FOIA he has the right to request recorded information it holds. It explained that it had attempted to establish what recorded information his requests may relate to, but because he had listed a series of questions rather than detailing what information is required this had not been possible. It explained that all its records/documents are held electronically, and having conducted a search it identified no recorded information which could be relevant to the requests. It advised the complainant that there is no duty upon the Legal Ombudsman to create new information in order to reply to the requests.
9. It explained that it searched its internal intranet and knowledge base. It also sought guidance from its investigation teams. The requests relate to evidence the Legal Ombudsman receives and establishing its credibility. It confirmed it has no specific guidance note on this area as it is matter assessed on a case by case basis and as part of the investigation. It said that the legislation and rules which govern the Legal Ombudsman also do not address this area.
10. The Legal Ombudsman said that information of this type would sit either within the primary legislation and rules which govern its work, or in guidance/training aids produced to aid investigators to carry out their work. It said the information would not be held locally as it relates to how it operates as an organisation. It said that if the information were held, it would be held electronically, it said key areas of investigation, evidence, and decisions were searched. It therefore said that its searches were appropriately targeted.
11. However it said that it did write to the complainant on 30 January 2015, as a matter of good service to try to answer the complainant's questions outside of FOIA. It provided some background to the Commissioner to these questions. It explained that the Legal Ombudsman was set up under the Legal Services Act 2007 to simplify the system for dealing with complaints about lawyers and make sure consumers had access to an independent expert to resolve those complaints. It said that all Ombudsman schemes are designed to be quick and informal ways of resolving disputes or complaints about professionals or other service providers. It said that it operates at a distance without face to face hearings, relying on documents and statements submitted by the parties to the complaint. It said that the service is inquisitorial rather than adversarial. It said that this differs to the court process which some of its complainants may have experienced before they come to the Legal Ombudsman with their concerns. While there can be limitations in using an ombudsman scheme compared to the full court process, the advantage for consumers is that the process is free and non binding if

they disagree with the final decision; and in a high proportion of cases, it produces results which the parties can accept as fair.

12. The Commissioner considers that the Legal Ombudsman conducted a thorough and appropriately targeted search for the requested information. Whilst the Legal Ombudsman was unable to find any recorded information to answer the complainant's requests, it tried to answer the complainant's queries outside of FOIA. It also contacted relevant personnel to ensure that searches were directed accurately. On the balance of probabilities the Commissioner is satisfied that the Legal Ombudsman does not therefore hold any information relevant to the scope of the request.

Right of appeal

13. 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

14. 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.
15. 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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Wycliffe House
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Wilmslow
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SK9 5AF