

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 May 2023

Public Authority: Government Legal Department
Address: 102 Petty France
Westminster
London SW1H 9GL

Decision (including any steps ordered)

1. The complainant requested information relating to the Government Legal Department's (GLD) policy on making reasonable adjustments for those with mental disability and their policies and procedures for dealing with disabled persons. GLD disclosed some information and confirmed that other information was not held. The complainant disputes this and considers additional information should be held.
2. The Commissioner's decision is that:
 - on the balance of probabilities, GLD has disclosed all the relevant information it holds and does not hold further recorded information relevant to the complainant's request and that it has complied with section 1(1) of the FOIA and,
 - that in failing to address the full scope of the request in the statutory time limit GLD breached section 10(1) of the FOIA.
3. The Commissioner does not require GLD to take any corrective steps.

Request and response

4. On 5 January 2023, the complainant wrote to GLD and requested the following information:

"I am making a freedom of information request for disclosure of the Government Legal's policy on making reasonable adjustments for those with mental disability, and their policies and procedures for dealing with disabled persons in the course of their work and ensuring compliance with Equality Act."

5. GLD responded to the request on 2 February 2023 and advised that it was withholding the information under the exemption for information intended for future publication – section 22 of the FOIA.
6. On 8 March 2023 GLD sent the outcome of its internal review, dropping its reliance on section 22 and disclosing information to the complainant.
7. On 8 March 2023 the complainant wrote to GLD and stated:

"I do not believe you have understood the original request.

This is not the policy I was seeking....

I requested the policy and procedures for how GLD employees deal with third parties who have mental disability, it is not the policy in the work place I am seeking it is the policy and procedures for employees to follow when dealing with people who have disability...."

8. On 9 March 2023 GLD responded and confirmed that it considered that the details contained in the complainant's email of 8 March 2023 constituted a new request for information.

The scope of the complaint

9. The complainant contacted the Commissioner on 16 March 2023 to complain about the way their request for information had been handled. The complainant confirmed that they considered that GLD had failed to provide all the information originally requested and wrongly identified the details provided in their email of 8 March 2023 as a new request.
10. The Commissioner has considered whether GLD complied with the complainant's request for information.

Reasons for decision

11. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
12. Section 10(1) of the FOIA obliges public authorities to comply with section 1(1) within 20 working days.
13. On 31 March 2023 the Commissioner wrote to GLD and set out his initial view that the complainant's email of 8 March 2023 did not constitute a new request for information. He directed GLD to provide the information identified as part of its response to and compliance with the original request of 5 January 2023.
14. On 14 April 2023 GLD issued a new response to the complainant which confirmed that it was relying on section 14 of the FOIA (vexatious requests) to refuse their request.
15. On 25 April 2023 the Commissioner wrote to GLD and confirmed that, in his initial view, section 14 was not applicable in this case and he directed GLD to reconsider its position.
16. On 12 May 2023 GLD wrote to the complainant and confirmed that it was dropping its reliance on section 14. It disclosed a copy of a "Safeguarding Policy and Procedure" document.
17. On 12 May 2023 the complainant wrote to the Commissioner and advised that they considered the document provided by GLD was not relevant to their request. They confirmed that they were seeking:

"I want the policies and procedures they have in place for ensuring for example if a member of staff who in the exercise of the function of providing legal services to a government department encounters a mentally disabled claimant acting in person and that person notifies them of the need for reasonable adjustments, what procedures are in place to ensure the needs are recorded and met."
18. On 15 May 2023 the Commissioner wrote to GLD and directed it to provide the information specified by the complainant.
19. On 19 May 2023 GLD responded to the Commissioner stating the following:

"GLD does not hold any policies to provide to the complainant. GLD does not have any specific policies or procedures around dealing with claimants who request reasonable adjustments due to having disabilities or otherwise. However, we encourage staff to act favourably and supportively in terms of how best to conduct their work. Furthermore, in these circumstances, if necessary, we would contact other involved government departments to ensure they are giving the claimant the support or adjustment they need. GLD would consider any other reasonable adjustment requests carefully on a case-by-case basis."

20. Having considered all the circumstances, the Commissioner accepts GLD's position that it does not hold further relevant recorded information beyond that which it has disclosed to the complainant. As such, the Commissioner has decided that GLD has complied with section 1(1) of FOIA.
21. However, in failing to comply with section 1(1) until the time of the Commissioner's investigation, GLD breached section 10(1).

Other matters

22. Although they do not form part of this decision notice the Commissioner would like to note the following matters of concern.
23. The Commissioner considers that the request which is the subject of this decision notice was clearly formulated and that it should have been obvious to GLD what information was being sought.
24. Moreover, the Commissioner considers that the information, which relates to policies and procedures should, if held, have been readily available to provide to the complainant. The Commissioner, therefore, considers that GLD's handling of the request resulted in a complaint to the Commissioner which should not have been necessary.
25. In future, the Commissioner expects that GLD should handle requests in accordance with the FOIA and also give consideration to proactively publishing information about policies and procedures under section 19 of the FOIA.

Right of appeal

26. 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

27. 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.
28. 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

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