

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 29 June 2011

Public Authority: **The Financial Services Authority**
Address: **25 The North Colonnade**
 Canary Wharf
 London
 E14 5HS

Summary

The complainant requested the registration dates and addresses for five firms. The FSA disclosed information to him and he then requested an internal review and asked the FSA to consider alleged anomalies which he listed as 11 points. The FSA answered the complainant's various points, specifying which points it did not hold recorded information on, as these points were about information published by Companies House, not the FSA. The complainant also complained about the FSA's publication scheme.

The Commissioner considers that the points about Companies House were outside the remit of the Act and therefore did not consider them any further. The Commissioner found that the FSA's model publication scheme complied with both section 19 and section 20 of the Act. The Commissioner also found that the FSA was in breach of section 1(1) and section 10(1) of the Act.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 22 April 2010 the complainant requested the following information from the Financial Services Authority ("the FSA"):

'I hereby lodge an FIA 2000 information request for the registration date (initial thru [sic] current) and address (initial thru [sic] current and date changed in each case) for the following firms during the period 16th July 1998 (DPA 1998 date) thru [sic] the date at the head of this email:

1. Prudential Banking plc.
2. Egg Banking plc.
3. Egg plc.
4. Prudential Five plc.
5. Prudential Five Limited.'

3. On 24 May 2010 the complainant contacted the FSA. He explained that he wanted to lodge a request for an internal review as it had missed the deadline for its response to his request.
4. On 26 May 2010 the FSA responded. It explained that the complainant could access the information he wanted through its Public Register on line and also view the dates of when a firm became registered. However, the FSA acknowledged that the complainant wanted hard copies and explained that its data extract team would deal with this. It also explained that for a fee the complainant could receive an extract of the register and provided an email address for him to contact. Information was disclosed to the complainant in the form of a table. The FSA did not apply any exemptions.
5. On 24 June 2010 the complainant requested an internal review. He also provided a list of 11 points which he explained were anomalies (in his view) and asked that they be considered during the review (see appendix 1). Some of these points were related to the information already disclosed to him.
6. On 20 July 2010 the FSA contacted the complainant, explaining that it was its intention to provide him with the requested information. It explained that given that the email of 24 June 2010 was a request for clarification of information already disclosed to him and requests for further information, it was going to deal with the 11 points contained in it. The FSA answered points 1, 2 and 3. It also explained that the answer provided to point 1 answered point 8 too and that with regard to points 4-7 and 9-10 it was unable to comment on information held by Companies House.

7. The FSA also provided the complainant with a corrected version of the table it had provided previously, as two columns (i.e. the Address Effective Date and Address End Date) showed the same dates when in fact there were two different dates. It apologised for the mix up.
8. On 1 September 2010 the complainant requested an internal review. He explained that the FSA should correct certain anomalies during this process and then listed the 11 points contained in his request of 24 June 2010 again, but stated that point 11 was closed.
9. On 8 September 2010 the FSA responded. It provided more information regarding point 1 of the 11 points contained in the complainant's request of 24 June 2010. With regard to point 2 the FSA rectified some information and apologised for the error; with regard to point 3 the FSA provided a further explanation to assist the complainant's understanding. The FSA also explained again that it could not provide information regarding point 4-7 and 9-10, as these points concerned information held by Companies House.
10. On 10 September 2010 the complainant contacted the FSA, requesting an internal review with regard to the FSA's response of 8 September 2011, listing the points he wanted the FSA to consider during this review.
11. On 1 October 2010 the FSA confirmed that it had carried out an internal review. It provided a further explanation regarding comments made by the complainant about point 1, noted his comments regarding points 2 and 3 and reiterated that it could not provide any information regarding points 4-7 and 9-10, as these points related to information held by Companies House.

The Investigation

Scope of the case

12. On 30 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the 11 points he made in his request of 24 June 2010 (see appendix 1).
13. The Commissioner notes that the complainant has stated in his email to the FSA of 1 September 2010 that point 11 was closed. Therefore the Commissioner will not consider this point any further.

14. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. These issues are to do with information Companies House publishes; the complaint to the Commissioner is about the FSA not Companies House. The Commissioner also notes that points 4-7 and 9-10 are not requests for information but requests for the FSA to alter its information.
15. Therefore the Commissioner considers these points do not fall with the remit of the Act and the outstanding issues for consideration are points 1, 2, 3 and 8 of the complainant's email of 24 June 2011.

Chronology

16. On 18 January 2011 the Commissioner contacted the complainant. He explained that with regard to his complaint about the alleged differences between the information the FSA and Companies House published, he would need to take this up with the FSA as it was outside the remit of the Act.
17. On 8 March 2011 the Commissioner contacted the FSA. He asked it to provide him with details of what had been answered with regard to the 11 points in the request of 24 June 2010.
18. On 14 March 2011 the FSA provided the information to the Commissioner.

Analysis

19. The Commissioner notes that the FSA has answered all of the complainant's questions in his request of 22 April 2010 in that it explained how the complainant could access the information via its Public Register. It also explained that for a fee, the complainant could receive an extract of the register in question and provided the complainant with contact details.
20. The Commissioner also notes that the FSA has answered points 1, 2, 3 and 8 of the complainant's further request for information of 24 June 2010. The FSA explained that it could not comment on points 4-7 and 9-10 as this was about information held by Companies House.
21. The Commissioner also notes that the complainant has complained about the FSA's publication scheme.
22. Section 19(1) of the Act provides that a public authority must adopt and maintain a scheme which relates to the publication of information

and is approved by the Commissioner. Section 19 (2) also provides that a publication scheme must

- specify classes of information which a public authority is going to either publish or intends to publish
 - specify how a public authority is going to either publish or intends to publish the information;
 - whether it is going to charge for the information or not.
23. Section 20(1) of the Act provides that the Commissioner may approve model publication schemes prepared by him. In this case the Commissioner notes that the FSA has adopted his model publication scheme. He further notes that it has also provided a link to the Commissioner's guidance on model publication schemes.
24. The Commissioner is satisfied that the FSA's publication scheme specifies the classes of information and provides links to the information in question. He is also satisfied that the FSA explains that it will charge for specified information and provides the charges in question.
25. The Commissioner notes that the complainant has complained that the FSA has not put certain information in its publication scheme that it has in its online register. However the Commissioner is satisfied that the FSA's model publication scheme provides links to its online register.
26. The Commissioner is therefore satisfied that the FSA is not required to include information about specific companies on its website and that its model publication scheme adheres to the requirements of both section 19 and section 20.

Procedural Requirements

27. Section 1(1) of the Act provides that a public authority should inform an applicant whether it holds the requested information and if it does, the information should be disclosed.
28. Section 10(1) provides that a public authority must comply with section 1(1) within 20 working days following the date of receipt of the request.
29. The Commissioner notes that the FSA did not inform the complainant that it held some of the requested information within the 20 working day time limit.

30. Therefore the Commissioner finds that the FSA has breached section 1(1)(a) and section 10(1) of the Act.

The Decision

31. The Commissioner's decision is that the FSA dealt with the following elements of the request in accordance with the requirements of the Act:

- it has adopted the Commissioner's model publication scheme therefore has complied with sections 19 and 20 of the Act.

32. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- section 1(1) of the Act
- section 10(1) of the Act.

Steps Required

33. The Commissioner requires no steps to be taken.

Right of Appeal

34. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

35. 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.

36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 29th day of June 2011

Signed

**Faye Spencer
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Appendix 1

Point 1 - The "*Firm Address History*" table for Egg plc is missing

The FSA does not hold a "*Firm Address History*" table for Egg plc even though it alleges "*our records show that Egg plc was registered by the FSA in 2003 as a holding company [and remains registered to this day].*"

NB: Point 1 of my request for internal review (dated 1st October 2010) did not ask the FSA any questions; it simply provided undisputable evidence to substantiate my opinion that "*Egg plc has never been registered with and/or authorised by the FSA*". The FSA fails to explain why, contrary to row3 of the "*Firm Name History*" table, no entry with FSA FRN 226995 (Prudential Five Limited, Prudential Five plc, Egg plc, Prudential Mustang Limited or otherwise) currently exists in the FSA Register despite the fact that many other registered but not authorised firms do exist therein (e.g. FSA FRN 191532, 527835, 446403, 468187, 188167, 482551 and 170037). The FSA expressly refuses to publish "*business type*" and "*Operator*" in its Publication Scheme even though it uses those terms to justify why the entry with FSA FRN 484818 (and presumably 456283) currently exist in the FSA Register.

Point 2 - A brief description of each of the nine column names in the "*Firm Name History*" table is missing

The FSA expressly refuses to publish the description of the nine column names in its Publication Scheme (section 19 of FIA 2000) - http://www.fsa.gov.uk/Pages/Information/publication_scheme/index.shtml - even though they all appear in its online Register.

Point 3 - A brief description of "*Registered Name*", "*Registered*" and "*Authorised*" in the "*Firm Name History*" table is missing

The FSA expressly refuses to publish the description of "*Registered Name*", "*Trading Name*", "*Registered*" and "*Authorised*" in its Publication Scheme even though they all appear in its online Register.

Point 4 - According to Companies House, row1/column5 of the "*Firm Name History*" table should read "*17 Sep 1996*" not "*7 Oct 1996*"

The FSA expressly refuses to instruct Egg Banking plc to make the "firm name (change) information" held by the FSA consistent with that held by Companies House even though the latter is legally authoritative in England and Wales.

Point 5 - According to Companies House, row3/column5 of the "Firm Name History" table should read "18 Nov 1999" not "29 Jul 2003"

The FSA expressly refuses to instruct Egg plc to make the "firm name (change) information" held by the FSA consistent with that held by Companies House even though the latter is legally authoritative in England and Wales. Furthermore, the FSA refuses to delete row3 presumably because of its allegation "*our records show that Egg plc was registered by the FSA in 2003 as a holding company*").

Point 6 - According to Companies House, row3/column4 of the "Firm Name History" table should read "Prudential Mustang Ltd" not "Egg Plc"

The FSA expressly refuses to instruct Egg plc to make the "firm name (change) information" held by the FSA consistent with that held by Companies House even though the latter is legally authoritative in England and Wales. Furthermore, the FSA refuses to delete row3 presumably because of its allegation "*our records show that Egg plc was registered by the FSA in 2003 as a holding company*").

Point 7 - According to Companies House, row3/column6 of the "Firm Name History" table should read "02 May 2007" not ""

The FSA expressly refuses to instruct Egg plc to make the "firm name (change) information" held by the FSA consistent with that held by Companies House even though the latter is legally authoritative in England and Wales. Furthermore, the FSA refuses to delete row3 presumably because of its allegation "*our records show that Egg plc was registered by the FSA in 2003 as a holding company*").

Point 8 - Row4 of the "Firm Name History" table with inter alia row4/column2 and row4/column4 both set to "Egg Plc" and row4/column7 set to "Authorised" is missing

The FSA alleges that it does not hold the requested information presumably because of its allegation that Egg plc is registered with but not authorised by the FSA (see point 1).

Point 9 - According to Companies House, Egg plc changed its name to Prudential Five plc on 2nd May 2007

Relevant to points 1 and 5 thru 8 only.

Point 10 - According to Companies House, Prudential Five plc changed its name to Prudential Five Limited on 6th October 2007

Relevant to points 1 and 5 thru 9 only.

Point 11 - Row4 of the "Firm Address History" table for Egg Banking plc is inconsistent with row2, row3 and row5 thereof

Inconsistency does not exist in the amended version.

Legal Annex

Section 1(1) provides that -

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the FSA whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him.

Section 10(1) provides that –

Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

Section 10(2) provides that –

Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.

Section 10(3) provides that –

If, and to the extent that –

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.

Section 10(4) provides that –

The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day

following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner.

Section 10(6) provides that –

In this section –

“the date of receipt” means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

Section 19(1) provides that –

It shall be the duty of every public authority –

- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner (in this Act referred to as a “publication scheme”),
- (b) to publish information in accordance with its publication scheme, and
- (c) from time to time to review its publication scheme.

Section 19(2) provides that –

A publication scheme must –

- (a) specify classes of information which the public authority publishes or intends to publish,

(b) specify the manner in which information of each class is, or is intended to be, published, and

(c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.

Section 19(3) provides that –

In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest –

(a) in allowing public access to information held by the authority, and

(b) in the publication of reasons for decisions made by the authority.

Section 19(4) provides that –

A public authority shall publish its publication scheme in such manner as it thinks fit.

Section 19(5) provides that –

The Commissioner may, when approving a scheme, provide that his approval is to expire at the end of a specified period.

Section 19(6) provides that –

Where the Commissioner has approved the publication scheme of any public authority, he may at any time give notice to the public authority revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is given.

Section 19(7) provides that –

Where the Commissioner –

(c) refuses to approve a proposed publication scheme, or

(d) revokes his approval of publication scheme,

(e) he must give the public authority a statement of his reasons for doing so.

Section 20 (1) provides that –

The Commissioner may from time to time approve, in relation to public authorities falling within particular classes, model publication schemes prepared by him or other persons.

Section 20(2) provides that –

Where a public authority falling within the class to which an approved model scheme relates adopts such a scheme without modification, no further approval of the Commissioner is required so long as the model scheme remains approved; and where such an authority adopts such a scheme with modifications, the approval of the Commissioner is required only in relation to the modifications.

Section 20(3) provides that –

The Commissioner may, when approving a model publication scheme, provide that his approval is to expire at the end of a specified period.

Section 20(4) provides that –

Where the Commissioner has approved a model publication scheme, he may at any time publish, in such manner as he thinks fit, a notice revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is published.

Section 20(5) provides that –

Where the Commissioner refuses to approve a proposed model publication scheme on the application of any person, he must give the person who applied for approval of the scheme a statement of the reasons for his refusal.

Section 20(6) provides that –

Where the Commissioner refuses to approve any modifications under subsection (2), he must give the public authority a statement of the reasons for his refusal.

Section 20(7) provides that –

Where the Commissioner revokes his approval of a model publication scheme, he must include in the notice under subsection (4) a statement of his reasons for doing so.