

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2013

Public Authority: The Bank of England
Address: Threadneedle Street
London
EC2R 8AH

Decision (including any steps ordered)

1. The complainant requested information about the Joint Operating Board for the Funding for Lending Scheme. The Bank of England (BoE) explained that the information was not caught by FOIA because it was held for the purposes of its functions with respect to monetary policy.
2. The Commissioner's decision is that the requested information relates to monetary policy and the financial operations intended to support financial institutions for the purposes of maintaining stability and does not fall under FOIA. He does not therefore require the BoE to take any further steps as a result of this notice.

Request and response

3. On 3 June 2013, the complainant wrote to the BoE and requested information in the following terms:
 - 1. The names and roles of all members of the Bank of England and HM Treasury Joint Operating Board for the Funding for Lending Scheme (this board has also been called the Oversight Board)*
 - 2. All dates on which the Operating/Oversight Board has met.*
 - 3. The minutes from all of the meetings of the Operating/Oversight Board.*
 - 4. Any other documents held by the Bank of England that have been used in connection with the meetings of the Operating/Oversight Board.'*

4. The BoE responded on 18 June 2013. It explained that FOIA does not extend to certain parts of the BoE's functions, one of which is monetary policy. However, the BoE provided some information outside of the FOIA.
5. The complainant wrote to the BoE again on 18 July 2013 disputing the BoE's claim that the requested information was not covered by FOIA and asked the BoE to review its handling of the requests. He argued that the request 'did not seek information on the monetary policy behind the Funding for Lending Scheme ("the Scheme"), but merely the information relating to the body that oversees the performance of the Scheme'.
6. In its letter of 22 August 2013 the BoE informed the complainant that there was no basis upon which to conduct an internal review given its view that FOIA did not apply to the requested information. However, the BoE did furnish the complainant with further information outside of the FOIA.

Scope of the case

7. On 4 September 2013 the complainant contacted the Information Commissioner about this response.
8. The Commissioner considers that the first matter that must be decided is whether the requested information is subject to FOIA.
9. In approaching cases in which the principal issue is whether FOIA applies to requested information (see, for example, *Sugar v the Information Commissioner and the BBC* [EA/2005/0023]), the Information Tribunal has allowed that a decision notice can be issued under section 50(1) regardless of whether the Commissioner does, or does not, find that FOIA applies. The Commissioner has therefore acted in accordance with this finding.

Reasons for decision

10. Schedule One, Part VI of FOIA provides that the BoE is a public authority for the purposes of FOIA, but only has to deal with requests for information in some circumstances. The entry relating to the BoE states that the BoE is a public authority:

"...in respect of information held for purposes other than those of its functions with respect to –

(a) monetary policy,

- (b) *financial operations intended to support financial institutions for the purposes of maintaining stability, and*
- (c) *the provision of private banking services and related services."*
11. This means that the BoE has no obligation to comply with Parts I to V of FOIA where information is held for any of the purposes described at (a) – (c) above. The Commissioner refers to this as the Schedule 1 derogation.
 12. The Commissioner's task is therefore to consider whether the requested information, if held, is genuinely held for the derogated purposes or not.
 13. The complainant argues that the FLS is '*primarily a Government scheme aimed at encouraging lending to the general public, in the form of loans for small businesses and mortgages.*' He argues that the requested information (about the Board which oversees the performance of the FLS) can be clearly distinguished from the functions (formulating policy) set out in the derogation.
 14. BoE have explained that the Monetary Policy Committee (MPC) views the '*impact of the Funding for Lending Scheme (FLS) on the economy as an important part of their assessment i.e. the effect of the easing of credit conditions and what this means for growth and inflation. This is evident from the minutes of the MPC meetings, the Bank's inflation report and the document ...Monetary policy trade-offs and forward guidance. Therefore, any information or discussions, including deliberations of the Joint Oversight Board, which may help to inform that assessment, would be excluded under the FOI Act.*'
 15. The decision notice for the case reference <http://www.ico.org.uk/FS50432444.ashx> is relevant to this request as the complainant also distinguished between decisions to purchase assets (monetary policy) and conditions or controls imposed by the BoE (non-monetary policy).
 16. In that case the Commissioner accepted that the term 'monetary policy' is a broad one and will 'necessarily cover a number of the BoE's key functions simply because of the role the BoE plays in promoting monetary and financial stability.'
 17. The case explored definitions of monetary policy: 'Economic strategy chosen by a government in deciding expansion or contraction in the country's money-supply' and 'monetary policy usually operates in the UK through influencing the price at which money is lent – the interest rate.'
 18. The Commissioner concluded that it would be an artificial device to 'separate the BoE's broader strategic aims ...from the checks and controls... given that both aspects would seem integral to the application

of the broader monetary policy'. The refusal of the BoE to provide the information was upheld by the Commissioner as he was satisfied that it fell under the derogation.

19. In a similar way, the requested information (about the Board which oversees the performance of the FLS) cannot be separated from the core purposes of the BoE in promoting monetary and financial stability. Any information held would be held for the purposes of its monetary policy.
20. For this reason, the Commissioner has decided that the request asks for information that, if held, would be held for the functions of the BoE's monetary policy and is derogated. The BoE was not therefore obliged to comply with Parts I to V of FOIA.

Right of appeal

21. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

22. 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.
23. 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
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**