

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2015

Public Authority: Ofgem
Address: 9 Millbank
London
SW10 3GE

Decision (including any steps ordered)

1. The complainant has requested information about a consultation on a price control regime: the Revenue = Incentives + Innovation + Outputs (rIIO) model. Ofgem has said it does not hold the information.
2. The Commissioner's decision is that, on the balance of probabilities, Ofgem does not hold the requested information. He is satisfied that Ofgem has met its obligations under section 1 of the FOIA and he does not require Ofgem to take any further steps.

Request and response

3. On 6 August, the complainant wrote to Ofgem and requested information in the following terms:

"My Freedom of Information Request is for detailed information about any consultation with domestic customers in the formulation of the RIIO model.

This information should include details of where the consultees live, how secure their normal supply is, whether they are shareholders or not and any other information necessary to establish that the chosen consultees present a fair cross section of the consumer base.

The regulations are applied on a nation wide basis.

I appreciate that some of the information may be personally sensitive and peoples personal details are not required."

4. Ofgem responded on 7 August. It said it does not hold this information and provided the complainant with web links to where they could find general information about Ofgem's consultations.
5. Correspondence between the complainant and Ofgem followed. Following a review of its response, Ofgem confirmed in a letter to the complainant dated 29 January 2015 that it does not hold the specific information the complainant has requested.

Scope of the case

6. The complainant contacted the Commissioner on 16 December 2014 to complain about the way his request for information had been handled. He is not convinced that Ofgem does not hold the information, or indeed that Ofgem undertook the consultation in question.
7. Beginning in December 2013, the complainant has experienced a number of power outages. While it is apparent that the complainant is not satisfied with wider aspects of the service he has had from Ofgem and SSE (Southern Electric), the Commissioner must focus his investigation on whether Ofgem holds the specific information that the complainant requested under the FOIA.

Reasons for decision

8. Section 1 of the FOIA says that anyone making a request for information to a public authority is entitled be informed whether the public authority holds the information, and if so, to have that information communicated to them.
9. The information in question concerns a consultation that was undertaken to gather customer opinions on electricity distribution service interruptions.
10. Ofgem contracted out this consultation to MORI and MORI undertook it in early 2013. Ofgem has told the Commissioner that it had no expectation that MORI would send it the detail of the consultation, such as the personal details requested by the complainant. There was no data-sharing arrangement in place; Ofgem says it has not seen the original raw data and has never held it.
11. Ofgem says that MORI would guarantee to those participating in the consultation that they would remain anonymous and that there is no provision, or necessity, for MORI to retain the research information long

term. Ofgem argues that the anonymity of the survey participants would encourage any personal information to be destroyed in order to remove the risk of individuals being identified.

12. Nonetheless, during its longer correspondence with the complainant, Ofgem had asked its Electricity Distribution and Consumer Research teams (both involved in the consultation research) to search their records to see if they held information within the scope of the request. They searched their SharePoint and email accounts and concluded they do not hold the information.
13. They did, however, identify relevant information that was already published which they considered could help the complainant understand the wider consultation process. Ofgem directed the complainant to this online information. This includes information that resulted from the survey in question which Ofgem highlighted to the complainant in January 2015. Ofgem acknowledged to the Commissioner that it could have done this earlier.
14. The Commissioner finds Ofgem's arguments compelling. In the absence of similarly compelling arguments from the complainant, he is satisfied that, on the balance of probabilities, Ofgem does not hold the information that the complainant has requested.

Right of appeal

15. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF