

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 June 2016

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

Decision (including any steps ordered)

1. The complainant has requested information about the names of companies with a particular consumer credit licence. The Financial Conduct Authority (FCA) released information relating to firms to which the FCA has given interim permission. It has applied the exemption at section 21(3) of the FOIA to information it holds about firms with full permission. The FCA is withholding this information because it says it is already reasonably accessible to the complainant.
2. The Commissioner's decision is that the FCA has correctly applied section 21(3) to the withheld information. He does not require the FCA to take any steps.

Request and response

3. On 6 August 2015, the complainant wrote to the FCA and requested information in the following terms:

"I would like to request the following information under the Freedom of Information act: a record of the names (registered company names rather than trading names) of every UK based company with a consumer credit licence (full or interim permission from yourselves) that includes the category 'creditbrokerage / credit broking'"

4. The FCA initially handled the request outside of the FOIA when, on 10 August 2015, it directed the complainant to its Interim Permission Consumer Credit Register. It advised the complainant that he could search this Register for information on firms that are or will be in the

process of applying for full authorisation with the FCA ie that have interim permission. It said that firms that want to see if other firms can currently carry out consumer credit activities can subscribe to its Interim Permission Register Extract Service. The FCA provided some sample information to the complainant which included the charges for providing an extract of the Consumer Credit Interim Permission Register. These charges suggested that the fee for releasing this information to the complainant would be £795 with an additional processing fee of £200.

5. In correspondence dated 11 August 2015, the FCA's Register Extract Service team confirmed that it understood the complainant's request to be for the registered company names of every UK based company with both full or interim permissions to carry out regulated activities related to credit brokerage/credit broking. It clarified its email of 10 August 2015 which concerned companies with interim permissions. The team went on to advise the complainant that, with respect to fully authorised companies, it offers an extract service from the Financial Services Register. It said that the Register Extract Service forms part of the FCA's publication scheme and provided the complainant with the subscription charges applicable for information on companies with full credit broking permissions.
6. Correspondence followed and on 3 September 2015 the FCA provided a response to the complainant under the FOIA. It told the complainant that the information he has requested is already publicly available through its Register Extract Service. The FCA said that the information is therefore already accessible to him and is exempt from disclosure under section 21 of the FOIA.
7. Following an internal review the FCA wrote to the complainant on 30 October 2015 and confirmed that it considered that the requested information is exempt under section 21(3) of the FOIA.
8. During the Commissioner's investigation, the FCA reconsidered its response. On 13 May 2016, FCA wrote to the complainant. It told him that in connection with the information it holds about firms with interim permission to carry out consumer credit activities, it accepted that the charges for providing extracts were not sufficiently accessible at the time of his request (further explanation is at paragraph 13). The FCA said it was therefore able to provide the names of those firms with interim permission for credit broking activities, without charge. On 6 June 2016 the FCA released to the complainant the information relating to firms with interim permission that it held at the time of the complainant's request on 6 August 2015.

Scope of the case

9. The complainant had contacted the Commissioner 30 October 2015 to complain about the way his request for information had been handled. At that time, accessing information on firms with interim permission only through the Register Extract Service required a payment of approximately £1,000. Accessing information on firms with full permission would incur a further charge. The complainant therefore considered that the information he has requested is not accessible to him. The complainant was also not satisfied with how long it took the FCA to provide him with an internal review of its response.
10. The FCA has now released to the complainant information about firms with interim permission to carry out consumer credit activities, without charge. This particular information has therefore not been included within the scope of the Commissioner's investigation.
11. The Commissioner has focussed his investigation on whether the FCA has correctly applied the exemption at section 21(3) of the FOIA to the information it holds relating to firms with *full* credit brokerage/credit broking permissions. He has also considered the FCA's handling of its internal review.

Reasons for decision

12. Section 21 of the FOIA says that information that is already reasonably accessible to the applicant is exempt information.
13. Subsection 21(3) says that where information is only available on request from the authority (ie it is not already published or made available under statute, other than the FOIA), it cannot be considered as reasonably accessible to the applicant unless it is made available in accordance with the authority's publication scheme and any payment required is specified in the scheme. In other words, information that is made available through an authority's publication scheme can be considered to be reasonably accessible to the applicant.
14. In its internal review, the FCA clarified that it considered section 21(3) applied to the complainant's request. The FCA explained to him that it publishes on its website the Financial Services Register. This details those firms that are fully authorised for credit brokerage/credit broking. The FCA said that although it is possible to search firms' permissions individually, it is not possible to generate a report of all firms with specific permissions, such as credit broking, directly from the FCA

website. This information can, however, be provided by its Register Extract Service team on request and payment of a fee.

15. The FCA went on to explain that, with regard to section 21(3), the information the complainant has requested is made available via the Financial Services Register and that this Register is listed on the FCA's publication scheme together with a '£' sign which indicates that there may be a charge for the information.
16. The FCA noted an observation the complainant had made that the information he has requested should be freely available. It said that there are direct and indirect costs to a public authority such as the FCA in maintaining registers and making records available to the public. The FCA explained that legislation giving public authorities their powers often includes the ability to charge fees for public access to information. This is so that the costs are in part recovered from the users of a public authority's services rather than falling on taxpayers generally or, in the FCA's case, firms that pay its fees.
17. In the case of the FCA, it told the complainant that section 347(6)(b) of the Financial Services and Markets Act 2000 (FSMA) confirms that the FCA may exploit commercially the information, or any part of the information, contained in its Register.
18. In its submission to the Commissioner, the FCA confirmed that it publishes on its website details of all firms approved for credit brokerage/credit broking activities, as well as those firms with interim permission.
19. It says it is therefore possible to search by firm name or reference number to establish whether an individual firm is approved or has interim permission. It gave as an example the search term 'Wonga'. This retrieves various matches and allows individuals to establish whether or not a particular firm is regulated by the FCA and, if so, which permissions they hold.
20. The FCA has confirmed to the Commissioner that it is not possible to generate a report showing all the firms with particular permissions, such as credit broking, directly from the FCA website. The FCA therefore provides a Register Extract Service which is able to provide extracts from the Financial Services Register on payment of a fee.
21. The FCA clarified that, on payment of the Register Extract Service Fee, subscribers are provided with a Subscribers Handbook, a copy of which it provided to the Commissioner. This Handbook details which regulated activity code equates to each category of regulated activity. For example code 180 relates to Credit Broking. To establish those

companies approved for consumer credit activities it would be necessary to manipulate the information provided by the Register Extract Service by cross referencing the 'Firm Reference Number' with the 'Firm Authorisation File' to obtain the names and addresses of relevant firms.

22. The cost of this service depends on a number of factors, such as: how often the subscriber wants to receive the files (one off, weekly, monthly), whether only 'Firm' data or both 'Firm and Individual' data is required, the purpose for which the data will be used and how the subscriber wants to receive the data (on CD or via download). The FCA gave as an example a one-off subscription to the 'Firms and Individuals' extract for 'other use' purposes, delivered on CD. This would cost £11,498 (excl VAT). The FCA confirmed that it provided the complainant with full details of the associated costs on 11 August 2015.
23. In its submission to the Commissioner, the FCA went on to repeat the arguments for applying section 21(3) to the request that it provided in its internal review for the complainant. It provided the Commissioner with a link to its publications scheme. As mentioned at paragraph 15, the Commissioner has noted that the Financial Services Register is listed in the FCA's publication scheme with a '£' sign indicating there may be a charge for information. The Commissioner understands that an exact cost is not given because the cost depends on a number of factors, as described above.
24. The Commissioner is therefore satisfied that the FCA has correctly applied section 21(3) to the element of the request that concerns the registered company names of every UK based company with full permissions to carry out regulated activities related to credit brokerage/credit broking. While there may be a significant fee associated with releasing this particular information, under section 21(3) it can nonetheless be considered to be already reasonably accessible to the complainant.
25. The Commissioner notes the Information Tribunal's decision in EA/2012/0175¹. In that case, the requested information was health statistics which the public authority said was available from its publication scheme at a charge of £1,550. The appellant in that case also maintained that such a high charge meant that the information was

¹ <http://www.informationtribunal.gov.uk/DBFiles/Decision/i938/2013-01-24%20Decision%20EA-2012-0175.pdf>

not reasonably accessible to him. The authority had adopted the model publication scheme approved by the Information Commissioner and the Tribunal was able to decide that the information was reasonably accessible to the applicant by virtue of section 21(3).

Other matters

26. Section 16 of the FOIA places an obligation on public authorities to offer applicants advice and assistance. The Commissioner considers the provision of an internal review to be a useful way of assisting the applicant.
27. The FOIA does not stipulate the timescale within which advice and assistance should be offered. With regard to an internal review, the Commissioner recommends that an internal review is carried out within 20 working days of the request for one (and no longer than 40 working days). In this case, the complainant initially queried the FCA's response to his request on 8 September 2015 (sending a further email to the FCA on 18 September 2015 when he did not receive a response). The FCA provided an internal review on 30 October 2015. This was within the 40 working days that the Commissioner recommends.

Right of appeal

28. 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

29. 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.
30. 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

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