

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 July 2016

**Public Authority:** Financial Ombudsman Service  
**Address:** South Quay Plaza  
183 Marsh Wall  
London  
E14 9SE

#### Decision (including any steps ordered)

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1. The complainant has requested information about how the Financial Ombudsman Service (FOS) has implemented particular recommendations. FOS says it does not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, FOS does not hold the information the complainant has requested. He does not require FOS to take any steps.

#### Request and response

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3. On 9 October 2015, the complainant wrote to FOS and requested information in the following terms:

*"I wish to be informed of FOS "design & implementation of robust, fair filter" applied to Case: Redacted by [Named Individual 1] given his letter dated 17 July 2015 given [Named Individual 2] letter dated 19/8/2010 (FOS Case redacted) which mentions therein such matters, & that I remain entitled to see copies of documents. FOS design of such 'robust, fair filter' may be documented as a Flowchart, or other logical diagram, or by other textual instruction(s) or 'expert' computer system. I remind the FOS of Guidance which requires you to provide assistance if any re-drafting is necessary for the FOS to further understand my above requirements."*

4. FOS responded on 5 November 2015. It said it did not hold the specific information the complainant requested, namely information about how it

implemented recommendations made by an Independent Assessor that were set out in a letter dated 9 August 2010. FOS provided the complainant with some general information about how it manages complaints that it receives.

5. Following an internal review, FOS wrote to the complainant on 5 February 2016. It maintained its original position and also confirmed that it does not hold information regarding any rules or logic applicable to how it interpreted the Assessor's recommendations.

## Scope of the case

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6. The complainant initially contacted the Commissioner on 9 November 2015 to complain about the way his request for information had been handled. Following FOS's internal review, the complainant confirmed that he remained dissatisfied with its response.
7. The Commissioner has focussed his investigation on whether, on the balance of probabilities, FOS holds the information the complainant has requested.

## Reasons for decision

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### Background

8. In its submission to the Commissioner, FOS had provided background information to the complainant's request.
9. FOS says that the complainant brought complaints to its service in 2008 and 2009. Its Principal Ombudsman issued a final decision in March 2009. The decision found that in all probability the complainant would make further complaints to FOS on matters similar to one which had been found to be vexatious and frivolous. The decision concluded that it would be appropriate to dismiss the complaints raised without considering their merits, on the basis that the complaints would be vexatious and frivolous.
10. The complainant submitted a new complaint to FOS in October 2009. FOS accepted the case for investigation and an adjudicator issued an assessment in January 2010. In June 2010, one of FOS's managers realised that the complainant had not been handled in line with the Principal Ombudsman's March 2009 decision. The complaint was reviewed by an ombudsman, who dismissed the complaint.

11. Dissatisfied with the level of service FOS provided to him, the complainant submitted a complaint to its Independent Assessor. The Independent Assessor issued her opinion in the letter referred to of 19 August 2010. She said:

*"I recommend that the Ombudsman Service should design and implement a robust, fair, filter to ensure that once the warning has been issued, further cases are assessed competently and promptly. It is important that there is not a blanket refusal because the refusal to investigate a complaint rest on whether the matter is similar to one or more previous cases that have been found to be vexatious and frivolous."*

12. FOS accepted the Independent Assessor's opinion. The complainant's request is for a copy of documents that show how FOS implemented the Assessor's recommendation.

### **Section 1 – information held / not held**

13. Under section 1(1) of the FOIA, anyone who requests information from a public authority is entitled to be informed by the authority whether it holds the information and, if it does, to have that information communicated to him or her.
14. In its submission, FOS says that because the complainant is a repeat requester, his complaints and correspondence are handled by a select few individuals in its service. As part of its investigation and search for any information falling within the scope of the current request, FOS says it spoke to these specific individuals, one of whom is referred to in the request. These individuals confirmed that FOS does not hold any recorded or documented information about how it implemented the Independent Assessor's recommendation.
15. FOS says that, following its acceptance of the recommendation, the executive adviser and senior manager who handle service complaints, and the adjudicator who investigates complaints, considered how best to implement the recommendation. FOS says that they agreed a way forward based on informal, face to face, discussion.
16. At first, the adjudicator who dealt with the majority of the complaints completed a postcode search on FOS's case handling system every 14 days to see whether any new cases had been logged on its system. FOS says that this was a very manual task and that it was difficult to spot new cases through the volume of complaints that had been made. FOS confirmed that there is no recorded information explaining or documenting this, but the individuals who are involved in managing the

complainant's complaints provided an explanation to the individual who provided FOS's submission to the Commissioner.

17. FOS's executive adviser and senior manager agreed that the best way to manage the complaints in future would be to have all of the complainant's incoming correspondence routed to one email inbox. This inbox would then be monitored by dedicated individuals. A specific inbox means that as individuals move around the organisation, or leave, FOS can appoint other individuals to monitor the inbox to make sure it can manage the complainant's complaints and still continue to provide a consistent and appropriate level of customer service.
18. FOS has told the Commissioner that this is a unique situation and a decision its service made in order to handle the complainant's specific circumstances. FOS confirmed that it does not hold a policy on this topic nor does it hold any documents, minutes or flow diagrams to show what has been described above. FOS's executive adviser had a discussion with a senior manager and contacted its IT department to request the re-routing of the complainant's correspondence. It says that this contact was probably by email but, as its retention policy for emails is 12 months, it no longer holds a copy.
19. In its response to the complainant of 5 November 2015, FOS had explained that it does not hold any relevant information in the form of a flowchart or diagram, but that all the complainant's emails are directed to a centralized inbox, and it explained how this works in practice.
20. FOS has confirmed that it is satisfied that it has conducted reasonable searches and that it does not hold any recorded information about the implementation of the recommendation in question. The searches it conducted included speaking to the individuals appointed to handle the complainant's complaints, and the executive adviser who arranged for the inbox to be set up. These individuals confirmed there were no written or recorded discussions on the recommendation's implementation. These individuals had a discussion, came up with a solution which they asked FOS's IT department to implement. Finally, FOS says it has no business or statutory requirement to hold or create the information the complainant has asked for.
21. The Commissioner has considered FOS's submission, and the correspondence he has received from the complainant. He has noted the background to the request, the searches FOS undertook and the discussions it has had with those who would have a good knowledge of the particular circumstances of how FOS handles the complainant's complaints and correspondence. On the basis of these factors, the Commissioner is satisfied that, on the balance of probabilities, FOS does

Reference: FS50604601



not hold the information the complainant has requested and has complied with its obligations under section 1(1) of the FOIA.

## Right of appeal

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22. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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**