

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 July 2020

Public Authority: Highways England (HE)
Address: Piccadilly Gate
Store Street
Manchester
M1 2WD

Decision (including any steps ordered)

1. The complainant has requested a copy of the process document(s) which Highways England use to manage claims against Third Party drivers, legal representatives and Insurers. HE confirmed that it did not hold the requested information under section 1(1)(a) FOIA.
2. The Commissioner considers that on the balance of probabilities, there is no recorded information held by HE under section 1(1)(a) FOIA falling within the scope of the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 3 December 2019 the complainant requested information of the following description:

"Please provide me with a copy of the process document(s) which Highways England use to manage claims against Third Party drivers, legal representatives and Insurers."
5. On 13 February 2020 Highways England responded. It denied holding the requested information.

6. The complainant requested an internal review on 24 February 2020. Highways England sent the outcome of its internal review on 23 March 2020. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner has considered whether any recorded information is held by HE under section 1(1)(a) FOIA relevant to the scope of the request.

Reasons for decision

9. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request". Section 1(1)(b) of FOIA states that, "If that is the case, to have that information communicated to him".
10. HE explained that it searched its electronic SHARE record management and storage facility. It searched SHARE to see if any old documents were still on there and found two documents that were no longer in use. It used the search terms Green Claims, Green Claims manual, Green Claims process and Green Claims guide however only found the two documents referred to above. It went on to explain that no paper files are kept. It confirmed that no document regarding the current process used has been produced.
11. By way of clarification, HE explained that the complainant requested 'a copy of the process document(s) which Highways England use to manage claims'. HE responded that the information was not held and in the internal review explained why that was the case. In the past HE have produced documents as to how to handle the claims process, however these are no longer used and were not being used for a while before the request was made. Therefore, as the request for information was the documents that HE use i.e. what process is followed currently, because there is no physical/written document or process in place HE cannot provide the information requested as it does not exist. If the request had been for the process and documents that had been used to manage claims in the past, two documents would have fallen within the

scope and may have been produced, dependent on whether any exemptions would have applied, but as the request was for what HE do use the response was that the information is not held.

12. Based upon HE's submissions that the complainant's request is for documents HE use and it has explained to the complainant that the only documents it has located are no longer in use, on the balance of probabilities, recorded information falling within the scope of the request is not held under section 1(1)(a) FOIA. It is of course open to the complainant to make a request to HE for the documents that are no longer in use.

Right of appeal

13. 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@justice.gov.uk

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

14. 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.
15. 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.....

Gemma Garvey
Senior Case Officer

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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF