

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 August 2021

Public Authority: Civil Aviation Authority
Address: CAA House
5th Floor
11 Westferry Circus
London
E14 4HD

Decision (including any steps ordered)

1. The complainant has requested the Civil Aviation Authority (the CAA) to disclose all agreements entered into between the CAA and Freedom Travel and/or other entities in the Thomas Cook group in relation to the bonding of flight-inclusive packages sold by Members under Freedom Travel's ATOL and all agreements entered into between the CAA and Hays Travel Limited/related entities (Hays) in connection with the administration by Hays of packages which had not departed as at the Liquidation Date. The CAA disclosed some information but withheld the remainder under sections 40, 41, 44(1)(a) and 43 of the FOIA.
2. The complainant has made no complaint about the CAA's application of section 40 or 41 of the FOIA.
3. With regards to the CAA's application of sections 44(1)(a) and 43 of the FOIA, the Commissioner is satisfied that both are engaged. With regards to the application of section 43 of the FOIA which is subject to the public interest test, the Commissioner is satisfied that the public interest in favour of disclosure is outweighed by the public interest in favour of maintaining this exemption.
4. The Commissioner does not require any further action to be taken.

Request and response

5. On 12 December 2019, the complainant wrote to the CAA and requested information in the following terms:
 - “(a) All agreements entered into between the CAA and Freedom Travel and/or other entities in the Thomas Cook group in relation to the bonding of flight-inclusive packages sold by Members under Freedom Travel’s ATOL (“**Packages**”);
 - (b) All agreements entered into between the CAA and Hays Travel Limited/related entities (“**Hays**”) in connection with the administration by Hays of Packages which had not departed as at the Liquidation Date;
 - (c) All agreements entered into between the CAA and the special managers of Freedom Travel, KPMG; and
 - (d) All communications (including letters, emails, call recordings, transcripts, minutes, notes etc) between the CAA and Members (other than communications with World Travellers alone) arising out of or in connection with the Collapse.”
6. The CAA responded on 15 January 2020. In response to requests (a) and (b), it refused to disclose the information citing section 44(1)(a) of the FOIA. Concerning request (c) the CAA confirmed that it does not hold this information. In respect of request (d), it disclosed some letters which were made available to all Freedom Travel Members but said that to comply with the remainder of this element of the complainant’s request would exceed the appropriate limit under section 12 of the FOIA. It also commented that whilst it had not collated the necessary information or, therefore, assessed its contents it is likely that section 44(1)(a) and 43 of the FOIA would apply.
7. The complainant requested an internal review on 22 January 2020 but only in respect of parts (a) and (b).
8. The CAA conducted an internal review and notified the complainant of its findings on 11 May 2020. In respect of part (a), the CAA disclosed the requested information apart from:
 - i) Details of the Minimum Applicable Protected Funds and Minimum Professional Indemnity Insurance Sum (in Exhibit F of the Deed). It continued to withhold this information in accordance with section 44(1)(a) of the FOIA.
 - ii) Personal information, in accordance with section 40(2) of the FOIA.

- iii) Bank account details, in accordance with section 41 of the FOIA.
9. Regarding part (b) of the request, the CAA concluded that there are two documents in the scope of this element of the request. It did not consider section 44(1)(a) applied but advised the complainant that it was still considering whether the contents of these documents should be withheld under another exemption.
10. The CAA issued a further response on 22 July 2020 to address part (b) of the request. It disclosed the requested information with the exception of:
- i) Personal information, in accordance with section 40 of the FOIA.
 - ii) Bank account details, in accordance with section 41 of the FOIA.
 - iii) Various terms and conditions within the agreements, in accordance with section 43 of the FOIA.

Scope of the case

11. The complainant first contacted the Commissioner on 29 April 2020 to complain about the way their request for information had been handled. At this time the CAA had not carried out the internal review. By the time the complaint was addressed by the Commissioner the internal review process, albeit late and in two parts, had been completed.
12. The complainant confirmed that they have no interest in the personal data or the bank account details withheld under section 40 and 41 of the FOIA. However, they remain dissatisfied with part (a), as they do not agree section 44(1)(a) applies to the withheld information and they believe further recorded information is held to that to date identified. In relation to part (b), they remain dissatisfied as they do not consider section 43 of the FOIA should apply to the redactions made and requires the Commissioner to ensure that no other relevant agreements are held, which again to date have not been identified.
13. During the Commissioner's investigation the CAA decided to disclose the Minimum Professional Indemnity Insurance Sum to the complainant. It provided confirmation on 28 January 2021 that it had written to the complainant to disclose this information to them. The CAA also identified further recorded information it held in relation to part (a) of the request. It disclosed one document to the complainant with personal data redacted under section 40 of the FOIA and another document with redactions made under section 44(1)(a). The identity/description of the latter document cannot be included in this decision notice because the CAA considers this information to be confidential.

14. The remainder of this notice will therefore address the CAA's application of section 44(1)(a) to the remaining withheld information under part (a) of the request and the CAA's application of section 43 of the FOIA to all remaining withheld information under part (b) of the request. It will also consider whether the CAA holds any further recorded information to that already identified in relation to both parts (a) and (b).

Reasons for decision

Part (a) – section 44(1)(a)

15. Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it –
 - (a) is prohibited by or under any enactment,
 - (b) is incompatible with any Community obligation, or
 - (c) would constitute or be punishable as a contempt of court.
16. To clarify the CAA considers the details of the Minimum Applicable Protected Funds and the redactions made to a further document it more recently identified is exempt by virtue of section 44(1)(a).
17. The CAA's position is that sections 23 and 71 of the Civil Aviation Act 1982 (the Act), read together with the ATOL Regulations 2012, prohibit it from disclosing the withheld information.
18. Section 23 of the 1982 Act states:
 - (1) ... no information which relates to a particular person and has been furnished to the CAA in pursuance of any provision of this Act to which this section applies or of an Air Navigation Order shall be disclosed by the CAA, or a member or employee of the CAA unless—
 - (a) the person aforesaid has consented in writing to disclosure of the information; or
 - (b) the CAA, after affording that person an opportunity to make representations about the information and considering any representation then made by that person about it, determines that the information may be disclosed; or
 - (c) that person is an individual who is dead, or is a body corporate that has ceased to exist or, whether an individual or a body corporate, cannot be found after all reasonable inquiries have

been made, and the CAA determines that the information may be disclosed; or

(d) the CAA determines that the information is of the same kind as other information as respects which it has made a determination in pursuance of paragraph (b) or (c) above.

...

(6) This section applies ... sections 64 to 72 [of this Act]..."

19. Section 71 of the 1982 Act is the statutory provision under which the ATOL Regulations 2012 were made. These Regulations prescribe conditions for holding an ATOL licence and an accreditation as an Accredited Body, including the maintenance of adequate resources.
20. The CAA confirmed that it is required to monitor the activities of ATOL holders (see section 3 of the 1982 Act). To obtain an ATOL licence (including maintaining an existing licence), licensees are required to regularly provide sensitive information to the CAA, especially financial information. It stated that information is provided in confidence and this is the context of section 23(1) of the 1982 Act and the remaining withheld information under part (a) of the request.
21. It considers the withheld information could reveal, and/or is the product of, sensitive financial and/or commercial information about the business of the Thomas Cook Group ATOL holders (including Freedom Travel), which they were required to provide to the CAA for the purposes of obtaining an ATOL licence and (in the case of Freedom Travel) Accredited Body status.
22. The CAA advised that the supply of confidential (and in the case of Thomas Cook Group, market sensitive information) requires openness, which underpins the relationship between the CAA and regulated parties such as Freedom Travel. Disclosure of terms or licence conditions based on sensitive commercial/financial information could erode that relationship and generally undermine trust in the regulator. Discussions and disclosures between the regulator and ATOL holder must be full, timely and unhibited, in which positive and negative information is volunteered freely, which would not be the case if licence holders feared that information required to be provided for their ATOL licence and Accredited Body status were disclosed or otherwise made public and potentially revealed to competitors. The CAA's ability to obtain this information in future, and regulate ATOL holders effectively, would be compromised. It argued that, that is clearly not in the interests of consumers.

23. Under section 23(1)(a) it argued that there is an exemption to the statutory prohibition on disclosure if the particular company consents in writing to disclosure. However, it stated that there is no obligation on the CAA to seek such consent and referred to a First-tier Tribunal hearing of *Allison v MHRC* (EA/2007/0089).
24. It stated that after applying this legal framework, the CAA concluded that there is a statutory bar preventing it from disclosing the withheld information and that disclosure in contravention of that bar is a criminal offence: s23(5) of the 1982 Act. It is therefore satisfied that the remaining withheld information under part (a) of the request is exempt from disclosure in accordance with section 44(1)(a) of the FOIA.
25. In their internal review request, the complainant raised the point that they did not consider section 44(1)(a) of the FOIA could apply because the withheld information is part of an agreement between the CAA and Freedom Travel. They said the withheld information is not information furnished to the CAA.
26. The Commissioner's view is that if disclosure of the withheld information would reveal or is so intrinsically linked to or so closely based on the information that was furnished to the CAA, it will be covered by the section 44(1)(a) exemption. This is supported by the First-tier Tribunal hearing of *Civil Aviation Authority v Information Commissioner and Malcolm Kirkaldie* (EA/2009/0033) where the tribunal stated:

"So far as the latter type of information is concerned, this was so closely based on information furnished by MK Airlines that it could not be disclosed without disclosing or conveying the contents of the information furnished by it. As such, and in accordance with the IC's, approach and analysis in Case Reference FS50205237, the entirety of the information is information which was furnished to the CAA."
27. With regards to the Minimum Applicable Protected Funds, the CAA advised that this figure equates to the average cash remittances for ATOL protected holidays received by Freedom's members. The average cash remittances was information furnished to the CAA.
28. As the CAA has explained how the withheld information equates to information furnished to the CAA and how one cannot be revealed without revealing the other, the Commissioner is satisfied that this element of the withheld information is covered by section 44(1)(a) of the FOIA.
29. In respect of the remaining elements of the document more recently identified by the CAA as falling in scope of part (a) of the request, again the Commissioner is satisfied that this information could not be

disclosed without revealing sensitive and financial information furnished to the CAA. The withheld information is intrinsically linked and closely based on the information furnished to the CAA and therefore covered by the section 44(1)(a) exemption.

30. Concerning the issue of consent, the Commissioner is content that there was no consent in place at the time of the request.
31. The Commissioner is satisfied that the withheld information is information which relates to a particular person and has been furnished to the CAA in pursuance of any provision of the 1982 Act. It is therefore prohibited from disclosing the withheld information under sections 23 and 71 of the 1982 Act. Section 44(1)(a) of the FOIA applies.
32. Section 44(1)(a) of the FOIA is an absolute exemption, so there is no public interest test to consider.

Part (b) – section 43

33. Section 43 of the FOIA states that information is exempt from disclosure if its disclosure would or would be likely to prejudice the commercial interests of the public authority and/or a third party.
34. It is subject to the public interest test. So in addition to demonstrating that disclosure would or would be likely to prejudice the commercial interests of the public authority and/or a third party, the public authority must demonstrate that the public interest in favour of disclosure is outweighed by the public interest in maintaining the exemption.
35. The CAA explained that there are three broad categories of redacted information:
 - 1) The terms that limit or control the way that Hays delivered the services commissioned from them under the Fulfilment Agreement including limits on what Hays can or cannot do when dealing with consumers and/or third party suppliers in order to deliver the services commissioned under the agreement.
 - 2) The terms that govern the rights and obligations of the CAA and Hays to each other.
 - 3) The terms that limit or control the way that Hays conducted its own business affairs whilst delivering the services commissioned under the agreement.
36. It considers the remaining withheld information would be likely to prejudice its own commercial interests and those of Hays if it were to be disclosed for the following reasons. The CAA has consulted Hays about

disclosure and any arguments concerning the prejudice to Hays' commercial interests have originated from Hays itself.

37. The CAA confirmed that ATOL holders sell holidays to consumers. Such holidays will typically include a flight, some transfers to and from the overseas airport and some accommodation such as a hotel or villa overseas. ATOL holders put these holidays together by combining travel services supplied by different suppliers, with different suppliers providing all the separate elements but the ATOL holder being contractually responsible to the consumer for the whole holiday. If an ATOL holder ceases trading consumers will have paid (either deposit only or deposit plus balance) for a holiday that they will not receive because the ATOL holder with which they have contracted has ceased trading. The consumer generally has no direct relationship for the various individual travel services which make up the different elements of the holiday they have purchased and has no means by which to combine them together for their holiday. Moreover, the consumer will generally have paid the ATOL holder for their holiday but the individual travel service providers will not have been paid by the ATOL holder until the consumer has taken the air holiday and returned home (i.e. in arrears).
38. Under the ATOL scheme the CAA will administer a refund to a consumer for an ATOL protected holiday that has been paid for (to the extent paid for). However, consumers prefer to receive the holiday they booked rather than a refund: consumers have generally booked time off work, have other non-ATOL protected related bookings such as car parking at the airport which they will lose if the holiday does not go ahead. The CAA administered refunds will often not be able to be processed in time for consumers to book another holiday and in any event the price of a similar holiday is likely to have increased significantly in the meantime not least due to the failure of the ATOL holder concerned and the impact their failure has on the supply of holidays in that time period.
39. The CAA advised that in some cases, it is possible for the CAA to consider appointing a Fulfilment Partner. If the CAA is able to do so:
 - a) The Fulfilment Partner will be another ATOL holder.
 - b) The Fulfilment Partner will recontract with the consumer to provide exactly the same holiday and on the same terms (including same price assuming there is still a balance for the consumer to pay) as the contract the consumer had with the failed ATOL holder.
 - c) The Fulfilment Partner will arrange with each of the individual third party suppliers that together made up all the holidays booked by all the consumers (i.e. hundreds of different hotels, transfer providers

and airlines) to enter into a contract for each of the services necessary to provide the consumers with the identical holiday.

- d) The CAA will provide the Fulfilment Partner with the funds necessary to secure these bookings.
40. The CAA will only appoint a Fulfilment Partner where, based on the types of holidays arranged by the failed ATOL holder, the CAA judges that a Fulfilment Partner will practically be able to do this and where the CAA judge that to do so is either more cost effective or broadly the same cost as administering a full refund to the consumer. These judgments need to be made, and appointing a Fulfilment partner needs to occur in the first 24-48 hours after failure after which time the opportunity will be lost.
41. In addition to providing the funds to the Fulfilment Partner necessary to secure the third party supplier contracts, the CAA will pay the Fulfilment Partner a Fulfilment fee per booking to cover their time/overheads costs and so on. This fee is factored in when deciding whether fulfilling consumers holidays as opposed to refunding their holiday cost payments is possible and financially prudent.
42. The CAA went on to say that it has to identify ATOL holders able to take on the appointment of a Fulfilment Partner, review the terms on which each potential appointee is prepared to take on the role, and negotiate the terms of the Fulfilment Partner agreement within that time frame. The terms of a Fulfilment Partner agreement that must be negotiated in this period include:
- a) Whether consumers can choose to have a refund or must take the fulfilled holiday.
 - b) The negotiating scope the Fulfilment Partner has when trying to recontract, or secure the travel services from the individual travel service providers (many of which will be trying to increase their prices).
 - c) Actions the Fulfilment Partner can take with respect to Members of the Freedom Travel Limited.
 - d) The fee that that fulfilment partner is paid by CAA per booking they fulfil and when it is paid.
 - e) The mechanisms by which the Fulfilment Partner is provided with funds.
 - f) The conduct of the Fulfilment Partner once it has entered into and whilst carrying out its obligations under the Fulfilment Agreement.

- g) In what circumstances the contract can be terminated and the extent to which CAA's and/or Hays liability to the other party is excluded or limited.
43. In each negotiation the CAA is seeking to minimise the cost of the fulfilment exercise whilst ensuring that a fulfilment partner can properly carry the exercise out (and consumers have an acceptable consumer experience when dealing with the fulfilment partner). At the same time the Fulfilment Partner is seeking terms which make the fulfilment exercise as smooth as possible for them and is worthwhile for them in terms of the practical steps they will have to complete and how long they will take as compared to their fee and the profit they could otherwise be making if they utilise their resources in the ordinary way of selling holidays rather than fulfilling holidays of a failed ATOL holder.
44. The CAA explained that disclosure would be likely to prejudice its own commercial interests and those of Hays for the following broad reasons:
- a) Negotiation by the CAA of a Fulfilment Agreement when another holiday company (ATOL holder) fails and the CAA wants to arrange for another company (a Fulfilment Partner) to enter into an agreement (with CAA) to step into the place of the failed ATOL holder and secure the individual travel services supplied by third party suppliers which when combined make up the holiday bookings of all the consumers that had paid (or part paid) for the holiday and enable them to go on their holiday (known as 'fulfilment'). The CAA stated that it is currently in the middle of such a tender exercise in which potential fulfilment partners are being asked to provide a framework proposal to the CAA. It stated that disclosure of the withheld information would in its view be likely to negatively impact that process to the commercial detriment of the CAA.
 - b) Participation by Hays in the tender for a Fulfilment Partner contract in the event that the CAA chose to appoint a Fulfilment Partner upon the failure of an ATOL holder in the future.
 - c) Negotiation of terms by a future potential fulfilment partner (on behalf of the CAA) with third party suppliers selling holiday travel services in the UK.
45. The CAA said that the failure of Thomas Cook was by far the largest logistical exercise the CAA has handled (the largest peace time repatriation of civilians ever and largest claims handling process to process refunds of payments made for bookings made by consumers that had not yet travelled). It stated that dealing with this failure was further and exceptionally complicated by the interconnectivity of the different ATOL holders and non regulated travel companies within the

group, the fact that the group contained an integrated airline which supplied a significant proportion of the flights that made up the holidays and which also ceased trading, and the fact that some of the ATOL holders were Accredited Bodies.

46. It commented that due to the wholly exceptional circumstances of this failure and the high number of problems that it had to deal with within such a short space of time, the CAA had to negotiate and secure unique terms and conditions with the Fulfillment Provider. It had to make choices rapidly on where to focus its resources and where it would do things differently in the interests of the consumers in order to be able to deal with and manage a failure of this size. If the withheld information was disclosed into the public domain it would be likely to prejudice the CAA's ability to secure the best possible terms it can, within the very tight timeframe it has, with an appropriate Fulfillment Provider. Prospective Fulfillment Providers would be aware of the specific terms and conditions accepted in this case and use this information to negotiate and secure more favourable terms for itself. Equally, if the withheld information was disclosed into the public domain it would be likely to damage Hays' commercial interests in future tendering exercises of this nature. Competitors would have access to the unique and detailed arrangements secured and agreed in the Thomas Cook case and be able to use this information to outbid Hays.
47. The Commissioner has reviewed each redaction and the detailed arguments the CAA has provided and she is satisfied that disclosure would be likely to prejudice the commercial interests of the CAA and Hays. She is unable to go into very specific detail on certain terms and why she has reached this view because to do so would be disclosing elements of the withheld information.
48. She is however satisfied to say that due to the scale of the Thomas Cook failure, the need to make particularly quick decisions (within 48 hours) in order to resolve the matters the CAA faced, the very unique circumstances of the failure and how best to address these, disclosure would be likely to have the effects the CAA has described. The CAA has said how it had to focus its resources and do things differently in the interests of the consumers in order to be able to deal with and manage a failure of this size. The CAA has explained how it is currently in the situation of tendering for a Fulfillment Provider in another case. This shows these situations do occur and that a similar exercise would have to be performed. The terms and conditions are to some degree case specific and are set following the submission of various proposals from different providers and a process of negotiation. If prospective Fulfillment Providers had access to the withheld information they would know what the CAA had to accept in this case and use this information to secure more favourable terms with the CAA. It would be likely to damage the

CAA's ability to negotiate fairly and in the interests of consumers and the wider public and secure the most favourable terms and conditions it can.

49. The withheld information would be useful to Hays' competitors/other providers. They would be able to see what specific terms and conditions were agreed here and tailor their bids accordingly. This could result in those competitors outbidding Hays in a future exercise and hinder the CAA's ability to secure the best possible deal for the consumers affected and the overall public.
50. For these reasons, the Commissioner is satisfied that section 43 of the FOIA is engaged.

Public interest test

51. The CAA confirmed that it recognised the public interest in openness and transparency and in providing the public with access to information to enable them to fully scrutinise the decisions public authorities make. It acknowledged the public interest in understanding how public money is spent and ensuring that such tender processes are fair, represent value for money and are as open and transparent as possible.
52. However, in this case it considers the public interest rests in maintaining this exemption. It stated that disclosure of the remaining withheld information would be likely to reduce the CAA's ability to negotiate fairly and competitively in the future in similar tendering exercises. It would also be likely to damage the commercial interests of Hays and disclose sensitive financial information, which could be used against Hays to its detriment in future tendering exercises. It argued that such consequences are not in the wider interests of the general public. It would result in the CAA being unable to secure the best possible terms it can in future negotiations to the detriment of consumers and the public purse.
53. The Commissioner considers there are significant public interest arguments in favour of disclosure, considering the size and magnitude of the Thomas Cook collapse. It affected a significant amount of holidaymakers, both abroad at the time and those who had paid all or in part for a holiday planned ahead. The CAA faced a significant logistical challenge and the fallout and costs involved to remedy the situation were significant. There is a clear public interest in allowing access to the information which enables the public to understand more fully how the matter was addressed, what terms and conditions were agreed between the CAA and Hays and to assess for themselves where this represented value for money. Where significant levels of public spending are involved, there will always be significant public interest arguments in

favour of openness, accountability, transparency and therefore disclosure.

54. That being said, the Commissioner acknowledges the unique position the CAA and Hays faced and how the scale of the failure and what was needed to resolve the situation had to result in very quick decision making and different ways and means being agreed. The terms and conditions that were agreed (and which have been withheld) had to reflect those specific circumstances and were negotiated quickly and as favourably as possible for both sides. The CAA has explained that such tendering exercises are not unusual and in fact it is currently in the process of trying to secure another Fulfilment Provider as a result of the collapse of another holiday company. The Commissioner has accepted that disclosure of the withheld information would be likely to hinder both the CAA's and Hays' ability to compete fairly and competitively in future tendering exercises. Competitors would know what terms and conditions were secured here and although some may only be reflective of the unique situation the Thomas Cook collapse produced, others would clearly be useful in securing more favourable terms and more negotiating power. This would lead to the CAA being unable to secure the most favourable terms for consumers and ultimately the public purse and this would not be in the interests of the wider public. Hays could potentially be outbid in future tendering processes and this would be unfair and create an unlevel commercial playing field.
55. Although the Commissioner does recognise the significant public interest in disclosure, she has decided in this case that the public interest rests in maintaining the exemption. This is due to the nature of the withheld information and how the CAA has explained how useful this could be to its and Hays' competitors.

Is further recorded information held falling in the scope of parts (a) or (b)?

56. The complainant stated that it considers further recorded information fell within the scope of part (a) of the request to that already identified, namely but not limited to:
- "The terms of the renewal of FTGL's last ATOL prior to its collapse"
 - "The terms of [sic] which FTGL was granted accredited body status"

This also led the complainant to ask the Commissioner to ensure that all recorded information falling in scope of part (b) of the request has also been identified.

57. Further recorded information was identified during the Commissioner's investigation, as referred to in paragraph 13, but the CAA maintains that no further recorded information is held falling in scope of parts (a) and (b) of the request. Regarding the two bullet points above, the CAA advised that this type of information is not within the scope of part (a) of the request. It argued that the part (a) of the request is specifically worded to concern and be limited to agreements to which the CAA was party, not licence conditions imposed on the regulated person by the regulator which the two bullet points are. It argued that Freedom Travel had no choice but to accept the terms described in these bullet points, they are not agreements mutually negotiated or agreed between both sides. It stated that in the context of this case we are considering a regulator/regulated entity relationship. The regulated entity requires the relevant licence or authorisation to carry on its trade in what is a regulated market but there is no agreement containing contractual rights and obligations in the sense of a contract. It argued that the licence holder has a statutory obligation simply as a consequence of holding the licence.
58. The CAA carried out fresh searches of all areas to ensure that all recorded information falling in scope had been accounted for. It stated that it holds no further recorded information to that to date identified falling within the scope of the specific wording of parts (a) and (b) of the request.
59. The Commissioner is satisfied that, on the balance of probabilities, all recorded information held falling within the scope of parts (a) and (b) of the request has been identified. She has no reason to doubt this or any evidence to the contrary. She is also satisfied that the additional information described in the two bullet points outlined in paragraph 56 does not fall within the scope of part (a) of the request for the reasons the CAA has given. This information is not an agreement but conditions imposed on the regulated person by the regulated body. The Commissioner is bound by the wording of the complainant's request and what recorded information falls within that. Any new requests for information or requests for information that do not fall within the scope of an existing request (whether always required or later identified as being required) must be made separately to the CAA.

Other matters

60. The Commissioner notes that the complainant requested an internal review on 22 January 2020. The CAA issued its first response on 11 May 2020 but advised that it required additional time to consider part (b) of the request. The CAA did not issue its final response until 22 July 2020; six months from the date the internal review was first requested.
61. The section 45 code of practice advises public authorities to carry out an internal review within 20 working days and certainly no later than 40 working days from receipt. The additional time is usually required to consider more complex and voluminous requests.
62. In this case the Commissioner considers the CAA took an excessive amount of time to carry out its internal review. She would therefore like to remind the CAA of the section 45 code of practice and its requirements.

Right of appeal

63. 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

64. 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.
65. 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

Samantha Coward
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