

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 April 2021

Public Authority: Financial Conduct Authority
Address: 12 Endeavour Square
London
E20 1JN

Decision (including any steps ordered)

1. The complainant requested the contact details of an indemnity insurer. Following its internal review, the Financial Conduct Authority (the FCA) took the position that the information was not held
2. The Commissioner's decision is that, on the balance of probabilities, the requested information is not held.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 4 June 2020 the complainant asked the FCA to provide him with:
"...the contact details of Perry Prowse's Ltd indemnity insurers."
5. The FCA's initial response, dated 2 July 2020, stated that it could neither confirm nor deny whether it held the information and cited section 44(2) (statutory prohibitions to disclosure) of the FOIA.
6. Following the complainant's request for an internal review, the FCA provided it on 24 August 2020 amending its response stating that it did not hold the information requested.

Scope of the case

7. The complainant contacted the Commissioner on 1 September 2020 dissatisfied that the FCA had not provided him with the information requested.
8. The scope of the following analysis is to determine whether the FCA holds the requested information.

Reasons for decision

Section 1 of the FOIA – Information held/ not held.

9. Section 1 of the 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 within the scope of the request, and if so, to have that information communicated to him.
10. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
11. The FCA has responded to the Commissioner's enquiries explaining that firms with permission to carry on insurance distribution activity in relation to non-investment insurance contracts, such as Perry Prowse (Insurance Consultants) Ltd, are required to complete a Retail Mediation Activities Return (RMAR).
12. The RMAR must be completed with the information specified in the Supervision section of the FCA Handbook¹ which deals with reporting requirements
13. The FCA has further explained that as part of the RMAR self-certification process, Perry Prowse was required to confirm that they are in

¹ <https://www.handbook.fca.org.uk/handbook/SUP/16/Annex18B.pdf>

compliance with the prudential requirements in relation to Professional Indemnity insurance (PII) – as per pages 15-19 of the aforementioned FCA Handbook.

14. The FCA provided the Commissioner with a copy of Perry Prowse's most recent submitted RMAR, which the Commissioner has viewed and can confirm that no insurer names are detailed on it.
15. The FCA has advised the Commissioner that its General Insurance Supervision was responsible for the supervision of Perry Prowse. As this is the relevant business area, this would be where any relevant information would be held. In this case on the RMAR, which it held electronically.
16. It confirmed that no other records held about Perry Prowse contains the requested information. Searches were carried out in its electronic database and MS Outlook folders for Perry Prowse using the search term PII.
17. The FCA has told the Commissioner that FCA staff are not permitted to hold FCA information on their own computers. And it has no reason to believe any information has ever been deleted or destroyed.
18. The Commissioner asked whether it is required to hold the requested information and the FCA responded that as previously advised, firms such as Perry Prowse are required to take out and maintain PII. They are also required to submit a PII self-certification form as part of the RMAR confirming that they are in compliance with the FCA's requirements.
19. It has stated that the drop-down menu on the electronic RMAR provides a list of named insurers which comprise the majority of the PI insurance market. However, none had been selected on the form.
20. The FCA concluded by stating beyond the information submitted in the RMAR, there is no requirement for firms to provide any further information about their PII arrangements, unless requested to do so.
21. After review of the above and having viewed the document where the information, if held, would be recorded, the Commissioner can only come to the decision that, on the balance of probabilities, the information is not held.

Right of appeal

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@justice.gov.uk

Website: 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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF