

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 May 2024

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

#### Decision (including any steps ordered)

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1. The complainant has requested from the Financial Conduct Authority (FCA) information relating to the design, publication and views (on the results) of a survey. The FCA responded to the request outside the statutory time frame.
2. The Commissioner's decision is that the FCA breached section 10(1) and section 17(1) of FOIA by failing to respond to the request or issue a refusal notice within the statutory time frame of 20 working days.
3. The Commissioner does not require further steps to be taken.

#### Request and response

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4. On 3 October 2023, the complainant wrote to the FCA and requested information in the following terms:

"The FCA recently announced (<https://www.fca.org.uk/data/whistleblowing-qualitative-assessment-survey-2022>) the result of a survey it undertook into the views of whistleblowers who had interacted with the regulator.

The FCA received 1041 whistleblowing reports during the period covered by the survey. It contacted a sample of only 68 of these whistleblowers to take part in the survey; of these, only 21 returned fully completed questionnaires. These responses were received in January 2022; the results were published in May 2023.

Please disclose all emails and other documents sent to or received by the individual principally responsible for conducting the survey relating to:

1. The design and operation of the survey in respect of sample size and participant selection
  2. The timing of publication of the results of the survey
  3. The FCA's views on the results of the survey."
5. On 8 November 2023, 16 November 2023 and, 11 January 2024 the complainant contacted the FCA chasing its response to the request.
  6. On 10 November 2023, 12 January 2024, 7 February 2024 the FCA informed the complainant that it is still processing the request and aimed to respond by a specified date.
  7. On 21 March 2024, the FCA responded to the request.

### **Scope of the case**

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8. The complainant has expressed dissatisfaction with the timeliness of the FCA's response and asked the Commissioner to investigate the matter.

### **Reasons for decision**

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9. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

  - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him."
10. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
11. Under section 17(1) of FOIA a public authority must issue a refusal notice in respect of any exempt information within the same time period.
12. The FCA explained to the Commissioner that it exceeded the twenty working day timeframe due to a combination of factors. It said that a

large volume of information responsive to the request is primarily held within its former Director of Enforcement and Market Oversight's mailbox as well as an additional mailbox. It was therefore necessary for its Security Operations team to run central searches of the mailboxes, which took longer than anticipated. Certain records held in .pst format were not readily accessible, additional work was therefore required before it could review the entirety of the information held.

13. The FCA also explained that the request involved the application of section 36 of FOIA which concerns prejudice to the effective conduct of public affairs. Additional time to process the request was required due to the need to obtain the opinion of the qualified person.
14. The FCA also explained that due to staff sickness combined with the Christmas / New Year holiday the request was not processed further until 8 January 2024 when the Information Disclosure Team (IDT) case officer returned to work. It was not possible to re-assign the case to another case officer during this period due to other 'priority commitments'.
15. Further delays then occurred following the IDT case officer's resignation from the FCA. The request was re-assigned to another case officer who needed additional time to familiarise themselves with the request before finalising the response.
16. From the evidence provided to the Commissioner in this case, it is clear that the FCA did not deal with the request for information in accordance with FOIA. The Commissioner finds that the FCA has breached section 10(1) and 17(1) by failing to respond to the request or issue a refusal notice, in respect of the information to which it applied the exemption under section 36, within 20 working days.

## **Right of appeal**

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17. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Pam Clements  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**