

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 November 2013

Public Authority: Marine Management Organisation

**Address: Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH**

Decision (including any steps ordered)

1. The complainant made a request to the Marine Management Organisation ("MMO") for details of its guidance in respect of travel and subsistence limits. The MMO supplied some information to the complainant. The complainant complained that it had not fully responded to her request.
2. The Commissioner's decision is that MMO breached sections 1 and 10 by not informing the complainant that it did not hold information in relation to part of her request and by not disclosing additional information in relation to other parts of her request within 20 working days of the request and by the time of the completion of the internal review.
3. As the MMO disclosed to the complainant the additional information that it held that fell within the scope of her request during the course of the Commissioner's investigation, he does not require it to take any further steps to ensure compliance with the legislation.

Request and response

4. On 16 February 2013 the complainant made the following request for information under FOIA:

"Can you please send me the current guidance to MMO staff and Board members in respect of travel and subsistence limits. I am interested to learn what the guidance is for example in taking

first class rail over standard class, taking flights instead of rail travel and what the limits for hotel and subsistence expenses are. I am also interested in learning what the MMO policy and guidance is about providing or spending on alcohol for its staff and Board members."

5. The MMO responded on 15 March 2013. It disclosed some information to the complainant.
6. The complainant requested an internal review on 15 March 2013 on the basis that the MMO's response did not fully address the request she had made. In addition, she indicated that would have expected the MMO to have guidance as to considerations such as carbon footprint or other factors when considering methods of travel.
7. The MMO provided the outcome of the internal review on 16 April 2013 in which it upheld its original position.

Scope of the case

8. The complainant contacted the Commissioner on 18 April 2013 to complain about the way her request for information had been handled by the MMO, specifically, that it had not fully responded to the request that she had made. However, she confirmed that she was satisfied with the MMO's response to the part of her request about the limits for hotel and subsistence expenses and therefore did not wish to complain about that part of the response.
9. During the course of the Commissioner's investigation, the MMO disclosed further information to the complainant that it held that fell within the scope of her request
10. The Commissioner considered whether the MMO complied with FOIA in its response to the complainant's request, with the exception of the part of the request for information about the limits for hotel and subsistence expenses.

Reasons for decision

Sections 1 and 10 – Procedural breaches

11. The Commissioner considers that the scope of the complainant's request included the MMO's guidance or policies, which existed at the time of the request, on:

- (i) taking first class rail over standard class;
 - (ii) taking flights instead of rail travel;
 - (iii) the limits for hotel and subsistence expenses; and
 - (iv) providing or spending on alcohol for its staff and Board members.
12. As the complainant had indicated that she was satisfied with the MMO's response in respect of part (iii) of the request, the Commissioner did not consider this further. He went on to consider the MMO's responses in respect of parts (i),(ii) and (iv) above.
13. The complainant noted that the policy that had been disclosed to her was stated to be intended for adoption by Defra and its agencies. As the MMO was a not an agency of Defra at the time of the request, the complainant initially queried whether she had been provided with the appropriate policy. The MMO confirmed to the Commissioner that this policy came into force on 1 April 2011 and was being applied by the MMO at the time that the request was made.
14. In respect of part (i) and (ii) of the request, the MMO provided some additional information to the complainant related to these parts of the request during the course of the Commissioner's investigation. It also confirmed that it held no further information, including any relevant policy or guidance on carbon footprints, at the time that the request was made beyond that which it had disclosed to the complainant.
15. The Commissioner has determined that by not confirming to the complainant that it held additional information falling within the scope of parts (i) and (ii) of her request, that had not been disclosed by the time of the completion of the internal review, the MMO breached section 1(1)(a). By failing to disclose the additional information within 20 working days of the request, the MMO also breached section 10(1).
16. In respect of part (iv) of the request, the MMO provided the complainant with part of a policy which confirmed that it would not reimburse staff for costs relating to alcohol. However, when requesting an internal review, the complainant explained to the MMO that the information that she had been provided with was not the information that she had requested. She informed the MMO that her request was for any policy or guidance on 'providing or spending' on alcohol for its staff or board members.
17. During the course of the Commissioner's investigation, the MMO provided the complainant with a copy of its policy titled "Procuring hospitality". This policy prohibited staff from providing alcohol as part of hospitality. However, the complainant was again not satisfied that this

was information falling within the scope of her request. The Commissioner notes that this policy relates to the provision of hospitality by the MMO to others, rather than for its own staff.

18. The Commissioner accepts that the complainant's view of the request, that she was seeking from the MMO any guidance or policy regarding either spending money on alcohol for its staff and Board members or providing alcohol for them, is an objective reading of the request. He does not believe that the information provided to her by the MMO falls within the scope of that objective reading of the request.
19. The MMO has confirmed to the Commissioner that, at the time of the request, it held no guidance or policy regarding either spending money on alcohol for its staff and Board members or providing alcohol for them. He is therefore of the view that it should have informed the complainant of this in its response to her request.
20. The Commissioner has determined that, by not informing the complainant that it did not hold any information falling within the scope of part (iv) of her request by the time of the completion of the internal review, the MMO breached section 1(1)(a). By failing to inform the complainant that it did not hold this information within 20 working days of the request, the MMO also breached section 10(1).

Right of appeal

21. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

22. 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.
23. 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

Rachael Cragg
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