

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2022

Public Authority: The Pensions Ombudsman
Address: 10 South Colonnade
Canary Wharf
London
E14 4PU

Decision (including any steps ordered)

1. The complainant has requested information relating to the Pensions Ombudsman's 'cost' criterion for investigative decisions, the number of cases delayed, Parliamentary Ombudsman interventions regarding delays (by year), NAVIGO case activity with dates for mitigation of delays, why enquiries may not be responded to under FOIA or GDPR legislation, 'NAVIGO' GDPR logic adopted to process 'data' and information relating to 'automated' decision making.
2. The Pensions Ombudsman provided information in response to the request or explained why it would not hold information relevant to the request under section 1(1) FOIA. The complainant submitted a complaint to the Commissioner as he was dissatisfied with the Pensions Ombudsman's response regarding the 'cost' element of the request. The Commissioner therefore focussed his investigation to determine whether the Pensions Ombudsman had complied with the 'cost' element of the request under section 1(1)(a) FOIA.
3. The Commissioner's decision is the Pensions Ombudsman does not hold a specific cost criterion under section 1(1)(a) FOIA.
4. The Commissioner does not require the Pensions Ombudsman to take any remedial steps.

Request and response

5. On 17 January 2022 the complainant wrote to the Pensions Ombudsman and requested information in the following terms:

"FOIA permits disclosures of your 'cost' criterion for investigative decisions, then number of cases delayed, Parliamentary Ombudsman interventions regarding 'delays' (by year), NAVIGO case activity with dates for mitigation of delays, also why enquiries may not be responded to under FOIA nor GDPR legislation, as I remain entitled to "Subject Access", also 'NAVIGO' GDPR logic adopted to process "data" also "automated decision" review by a Data Controller given GDPR and FOIA obligations and "Information Commissioner" oversights. I thus wish to make FOIA request for the information cited above."

Within this correspondence the complainant also made a subject Access request under the Data Protection Act 2018. This is not however relevant to this Notice.

6. The Pensions Ombudsman responded to this request on 10 February 2022. In relation to the part of the request for 'cost' criterion for investigative decisions (which is the focus of the complaint), it explained that it does not hold a specific cost criterion. It said that every application it accepts is at the Pensions Ombudsman's discretion and when deciding whether to accept a complaint, the loss being claimed is one of several factors it takes into consideration. There is no minimum amount of loss, below which it would never investigate and it said it frequently takes cases on where the loss claimed is less than the average cost of carrying out an investigation.
7. Following an internal review the Pensions Ombudsman wrote to the complainant on 3 March 2022. It upheld its response to the request.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. In particular he said that he was dissatisfied with the Pensions Ombudsman's response regarding 'cost'.
9. The Commissioner's investigation has therefore focussed on whether the Pensions Ombudsman holds a 'cost' criterion for investigative decisions under section 1(1)(a) FOIA.

Reasons for decision

Section 1

10. Section 1 (1) FOIA provides 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.”

11. The Commissioner has sought to determine whether, on the balance of probabilities, the Pensions Ombudsman holds a cost criterion for investigative decisions.

12. In this case the Pensions Ombudsman has been clear that it does not hold a cost criterion for investigative decisions. It has explained that cost is one factor it takes into account when deciding whether to accept a complaint however there is no cost criteria below which it would never investigate.

13. Based upon this response, there are no searches the Commissioner could ask the Pensions Ombudsman to conduct to try to locate a cost criterion as it simply does not exist.

14. The Commissioner considers that on the balance of probabilities the information requested is not therefore held under section 1(1)(a) FOIA.

Right of appeal

15. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF