

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2024

Public Authority: Oxford Direct Services Limited

Address: St Aldates Chambers
109 St Aldates
Oxford
OX1 1DS

Decision (including any steps ordered)

1. The complainant requested, from Oxford Direct Services Limited ('ODSL'), information on whether a particular company has had any business dealings with specified companies named on ODSL's contracts list. ODSL said that it does not hold any relevant information.
2. The Commissioner's decision is that, on a balance of probabilities, ODSL was correct to state that it does not hold any information falling within the scope of the complainant's request for information.
3. The Commissioner does not require further steps.

Request and response

4. On 20 October 2023, the complainant wrote to ODSL and requested information in the following terms:

"With reference to the current register of contracts on the ODS website:

<https://www.odsgroup.co.uk/getmedia/03c8...>

Contract reference # 2022-015: Management & Leadership Training (Short Courses) at an estimated cost of £130K for work awarded to the following companies:

*Vale Consulting
The Oak Ridge Centre
Confident Conversations
Keen HR
Inspire Ignite*

Presumably the above contracts were authorised by the Executive Director, People and Corporate Services.

The Executive Director, People and Corporate Services, in addition to working for ODS has a side hustle of running her own HR consultancy, Relier HR and Development.

Please confirm and provide details if Relier HR has had business dealings with any of the 5 consultancies included in contract reference # 2022-015."

5. ODSL responded on 25 October 2023. It provided information in respect of ODSL's dealings with the companies named. It said, however, that it does not hold any relevant information in relation to whether Relier HR has had any business dealings with the named companies.
6. ODSL did not respond to the complainant's request of 25 October 2023 for it to carry out a review of its decision.

Scope of the case

7. The complainant contacted the Commissioner on 15 December 2023 to complain about the way their request for information had been handled. He argued that ODSL was not correct to say that it does not hold any relevant information in relation to Relier HR.

8. The Commissioner considers that the scope of his investigation is to determine whether ODSL was correct to state that it holds no information falling within the scope of the complainant's request for information relating to Relier HR.

Reasons for decision

Section 1 – General right of access to information

9. Section 1(1) requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If it does hold relevant information, it also requires that it communicates the information to the requestor, subject to any exclusions or exemptions applying.
10. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information/further information is held.

The complainant's position

12. The complainant argues that ODSL will hold information falling within the scope of his request for information.
13. He argued that in response to a different FOIA request, ODSL confirmed that The Executive Director, People and Corporate Services of ODSL, ('the Director'), had worked with one of the consultancies; Confidential Conversations. Therefore, regardless of the relationship between the two parties, ODSL would hold some relevant information whereas it has responded stating that it does not.

ODSL's position

14. ODSL noted that the complainant's request for information relates to Relier HR. It said that Relier HR, is a business privately owned by one of the directors of ODSL. As the Director owns Relier HR in a private

capacity, it is a completely separate organisation to ODSL. ODSL has not been involved with Relier HR.

15. ODSL clarified that it holds no information on Relier HR's dealings with any of the company's named by the complainant. As a privately owned, and completely separate company to ODSL, Relier HR will create and hold records in its own right.
16. ODSL clarified that the Director had previously confirmed to it that they have worked in organisations where Confident Conversations delivered training, but that is the only information that it holds.
17. ODSL therefore confirmed that it does not hold any information falling within the scope of the complainant's request for information.

The Commissioner's conclusion

18. The Commissioner has considered the arguments of both parties. The complainant believes ODSL will hold relevant information because in relation to a previous request it had been able to confirm that the Director had worked with one of the consultancies, Confident Conversations.
19. ODSL said that it is aware the Director had worked in organisations where Confident Conversations delivered training, but it confirmed to the Commissioner that it does not hold any information in relation to Relier HR's business dealings as Relier HR is a completely separate company to ODSL.
20. The Commissioner recognises that the relevant Director of ODSL would be likely to know the answer to the complainant's questions, however the FOI Act only applies to information held in recorded form.
21. The Commissioner accepts that as Relier HR is a completely separate, and privately owned company, ODSL would have no reason to hold recorded information on Relier HR's business dealings with any of the companies named by the complainant.
22. There is no contradictory evidence available to the Commissioner that indicates that ODSL's position is wrong.
23. On this basis the Commissioner has concluded that, on the balance of probabilities, the requested information is not held.

Other matters

24. The complainant requested that ODSL carry out a review of its decision on 25 October 2023. ODSL did not respond to that request.
25. The Commissioner wishes to remind ODSL that, under FOIA, where a requester contacts an authority expressing dissatisfaction with the council's response to their request it is good practice to provide an 'internal review' where it can reconsider its earlier response, and if necessary, revise it.
26. The Commissioner refers ODSL to his published guidance on internal reviews. This guidance can be read here:
<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/guide-to-freedom-of-information/refusing-a-request/#20>.

Right of appeal

27. 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

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

Ian Walley
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