

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 18 October 2022

**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 information on 11 March 2022 from the Financial Conduct Authority (FCA) regarding interests declared in the Government Study of Buildings Insurance. The FCA confirmed it held information and provided this to the complainant in accordance with its obligations under section 1(1)(a) and (b) FOIA. The Commissioner has considered whether any further information is held by the FCA falling within the scope of part 1 of the request. The complainant also made subsequent, more specific requests, on 4 May 2022 regarding the interests declared in the Government Study of Buildings Insurance which the FCA has failed to respond to.
2. The Commissioner's decision is that the FCA does not hold any further information falling within the scope of part 1 of the request made on 11 March 2022 under section 1(1)(a) FOIA. However the Commissioner considers that the FCA breached section 10(1) FOIA by failing to provide a response to the subsequent requests made on 4 May 2022.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - The FCA must provide a response to the requests made on 4 May 2022 in accordance with its obligations under FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 11 March 2022 the complainant wrote to the FCA and requested information in the following terms:

"The minutes of the FCA Board meeting of 27 of January 2022 record under item 1.2:"[NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] declared an interest in the Government Study of Buildings Insurance as well as [NAME REDACTED] as Chair of [HOUSING ASSOCIATION NAME REDACTED].

1) Could the FCA please disclose the nature and extent of the interest of [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] in the Government Study of Buildings Insurance?

2) In the minutes there is no mention of any discussion or resolution by the board about the Government Study of Building Insurance. Has the discussion perhaps been inadvertently omitted from the minutes? If so, could that part be added?

3) The FCA Board Meeting took place on the 27 of January 2022. The letter from the Department for Levelling Up, Housing and Communities to the FCA about a Request for the FCA to review the buildings insurance market for multiple-occupancy residential buildings is dated 28 January 2022, i.e. one day after the FCA Board meeting in question. How did the FCA board know about such "Government Study" one day before the letter from the Government was sent?"

6. On 8 April 2022 the FCA responded, it provided information in relation to parts 1 and 3 of the request and in relation to part 2 it confirmed no such discussions took place.

7. On 4 May 2022 the complainant asked the FCA to carry out an internal review in relation to part 1 of the request as he considered the FCA's response to be unclear. In particular he asked:

"I wish to appeal the below Freedom of Information response by the FCA. Your answer to question 1 (Could the FCA please disclose the nature and extent of the interest of [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] in the Government Study of Buildings Insurance?) is unclear and incomplete.

You have in fact answered that: "The individuals that declared an interest did so because they or a close personal connection own relevant property." The response is unclear because it does not specify if [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] are freeholders/lessors or leaseholders/lessees. The verb

"to own" implies ownership as freeholders/lessors: could you please clarify and confirm, as it has a material impact in respect of the nature of the declared interest.

The response is incomplete because it does not declare the extent of the interest, i.e. how many relevant properties [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] or a close personal connection own, e.g. a house converted into three flats or a block or many blocks of flats containing hundreds of flats?"

8. On 20 June 2022 the FCA wrote to the complainant with the result of the internal review it had carried out in relation to part 1 of the request. It confirmed that its response was unclear and addressed the request made. In particular it explained that:

"I consider that the interpretation of Q1 your original request was correct. The response of 8 April 2022 provided information that the individuals in question had declared an interest in the Government Study of Buildings Insurance at the 27 January 2022 FCA Board meeting. In my view our confirmation that "The individuals that declared an interest did so because they or a close personal connection own relevant property. [NAME REDACTED] is also the Chair of a Housing Association, which may also own relevant property." explains the "nature and extent" of the interest, as requested.

As our response was clear and complete in the context of the question asked it was therefore not necessary for us to consider whether any further information, such as details of the type and number of properties owned, is held.

I would mention, although you may already be aware of the point, that it is open to you to submit a further request under the FOI Act for the additional information that you outline in your email of 4 May 2022."

## **Scope of the case**

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9. The complainant contacted the Commissioner to complain about the way the request for information had been handled.
10. The Commissioner's investigation has focussed on whether the FCA holds any further information under section 1(1)(a) FOIA falling within the scope of the request dated 11 March 2022 and whether the FCA

breached section 10(1) FOIA in its handling of the subsequent requests made on 4 May 2022.

## Reasons for decision

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### Section 1

11. 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.”

12. The Commissioner has sought to determine whether, on the balance of probabilities, the FCA holds any further information falling within the scope of 11 March 2022 request.

13. In this case the FCA has confirmed that the individuals named in part 1 of the request declared an interest because they or a close personal connection own relevant property. It has therefore provided the information it holds in response to this request.

14. At internal review the complainant posed new, more specific FOIA requests on this subject:

“The response is unclear because it does not specify if [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] are freeholders/lessors or leaseholders/lessees. The verb “to own” implies ownership as freeholders/lessors: could you please clarify and confirm, as it has a material impact in respect of the nature of the declared interest.

The response is incomplete because it does not declare the extent of the interest, i.e. how many relevant properties [NAME REDACTED], [NAME REDACTED], [NAME REDACTED] and [NAME REDACTED] or a close personal connection own, e.g. a house converted into three flats or a block or many blocks of flats containing hundreds of flats?”

15. The Commissioner acknowledges that the FCA confirmed that it was open to the complainant to make a new FOIA for this information. However the Commissioner considers that the new FOIA requests had

already been made within the request for internal review dated 4 May 2022 and should therefore have been identified and processed as such.

16. Turning back to the request dated 11 March 2022, the Commissioner accepts that the FCA interpreted this request objectively and confirmed it held information and also provided the information it holds relevant to the scope of the request in accordance with section 1(1)(a) and (b) FOIA.

### **Section 10**

17. 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".
18. In this case the new FOIA requests made within the internal review request dated 4 May 2022 have not been responded to.
19. The Commissioner therefore finds that the FCA has breached section 10(1) by failing to respond to the new requests made within the statutory time for compliance. The FCA should now therefore respond to the new requests made within the complainant's correspondence dated 4 May 2022.

## Right of appeal

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20. 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)

21. 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.
22. 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**