

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 October 2022

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

Decision (including any steps ordered)

1. The complainant has requested information about the Fees paid by Carillion Plc. The above public authority ("the public authority") relied on section 44 of FOIA (statutory prohibition on disclosure) to withhold the information.
2. The Commissioner's decision is that the public authority has correctly applied section 44 of FOIA. However, the public authority breached section 17 of FOIA as it failed to issue its refusal notice within 20 working days.
3. The Commissioner does not require further steps.

Request and response

4. On 11 May 2022, the complainant wrote to the public authority and requested information in the following terms:

"Please confirm how much money you received from the now liquidated Carillion PLC between 2013 and 2018 when the company folded."
5. The public authority refused to provide the information and relied on section 44(1) of FOIA as its basis for doing so. It noted that disclosing the information would breach section 348 of the Financial Services and Markets Act 2000. The public authority upheld this position at internal review.

Reasons for decision

6. The following analysis sets out why the Commissioner has concluded that the public authority was entitled to rely on section 44 of FOIA in this particular case.
7. Section 44 of FOIA allows a public authority to withhold information whose disclosure, otherwise than under FOIA, would breach another piece of legislation.
8. In decision notice IC-40642-L0K8, the Commissioner found that the FCA was entitled to withhold the fees paid by a different company.¹ In paragraphs 17 to 21 he set out why such information was covered by FSMA when it was linked to an identifiable company. The present request names the company about whom the fees information is sought and the information is therefore caught by section 348 of FSMA (and thereby section 44 of FOIA) for the same reasons as set out in paragraphs 17 to 21 IC-40642-L0K8.
9. Section 17 requires a public authority wishing to withhold information to issue a refusal notice within 20 working days of receiving the request. The Commissioner notes that the FCA's refusal notice was issued on the 21st working day (even allowing for the double bank holiday for the Platinum Jubilee), therefore the public authority breached section 17 of FOIA in responding to this request.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2619069/ic-40642-l0k8.pdf>

Right of appeal

10. 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

11. 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.
12. 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

Roger Cawthorne
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SK9 5AF