

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 June 2013

Public Authority: Health and Safety Executive

Address: Redgrave Court
Bootle, Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant has requested information relating to health and safety documents in relation to a specific company.
2. The Commissioner's decision is that the Health & Safety Executive does not hold any information within the scope of the request.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

Background

4. The request relates to a complaint made in 2005 regarding the disconnection of a gas fire at the complainant's home.
5. The Health & Safety Executive (HSE) advised that CORGI undertook a full investigation in March 2006 as they were responsible for investigating complaints against gas installers.
6. HSE reviewed the complaint in 2006, however a decision was taken not to investigate the matter further.

Request and response

7. On 15 February 2012, the complainant wrote to the HSE and requested information in the following terms:

*"Required copy of ANY Health and Safety documents in relation to the Gas Appliance at my house relating to the company:- **Total Gas and Plumbing Ltd**"*

8. The HSE responded on 27 February 2012. It stated that any information it held on Total Gas and Plumbing Ltd had already been provided under the Data Protection Act (DPA) 1998.
9. Following an internal review the HSE wrote to the complainant on 26 April 2012. It maintained its original position.

Scope of the case

10. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
11. The Commissioner considers the scope of this case to be to determine if the HSE holds any information within the scope of the request.

Reasons for decision

12. Section 1(1)(a) of FOIA states 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"

13. The task of the Commissioner here is to determine whether, on the balance of probabilities, the HSE holds any information relevant to the request. Applying the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.
14. In deciding where the balance lies in cases such as this one the Commissioner may look at:
 - Explanations offered as to why the information is not held; and
 - The scope, quality, thoroughness and results of any searches undertaken by the public authority.

15. In its initial response to the complainant, the HSE advised that following a search of its paper and electronic records it did not hold the requested information.
16. The Commissioner wrote to the HSE to ascertain what searches it had carried out to determine that the information requested was not held.
17. The HSE explained that all complaints it receives are recorded on COIN, HSE's corporate information system, unless it is clear at the time of the complaint that HSE do not have regulatory responsibility for the concerns raised.
18. HSE stated that it had searched COIN for information detailed against the company however, it did not hold any records relating to that company or to the complainant's gas appliances because HSE does not have regulatory responsibility for investigating complaints relating to gas installers. At the time of the initial complaint CORGI undertook investigations relating to gas installers, and HSE advised the complainant of this.
19. HSE further explained that COIN is used to log all complaints, incidents and investigations against a duty holder that falls within HSE's regulatory responsibility. HSE also uses TRIM (Total Record Information Management) to save information that has an on-going corporate value.
20. HSE confirmed that TRIM does hold information relating to the complainant and the company regarding his complaint and that this has previously been provided to the complainant in response to a subject access request under the DPA.
21. HSE confirmed that it searched COIN using a variety of search terms and that if the information were held it would be held within electronic records.
22. HSE further stated that it has never held any health and safety documents in relation to the gas appliances at the complainant's home relating to the company.
23. It explained that it did hold information relating to his on-going complaint and as detailed above this has already been disclosed. HSE advised that it retains COIN records and TRIM records for a minimum of seven years.
24. HSE confirmed that there was no business purpose for which the requested information should be held nor any statutory requirements as HSE does not have regulatory responsibility for investigating gas installers.

25. On balance the Commissioner considers that the HSE has answered the complainant's request by confirming it does not hold the information requested.
26. Taking into account the above, the Commissioner therefore considers that HSE complied with section 1(1)(a) of the FOIA.

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: 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

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.

Signed

Pamela Clements
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Information Commissioner's Office
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SK9 5AF