

ANNUAL REPORT: FREEDOM OF INFORMATION REQUESTS, EXTERNAL COMPLAINTS AND INTERNAL WHISTLEBLOWING CASES

Report by Jenny Desira, Head of Knowledge Information Management and Security and Noel Sykes, Head of Standards and Reward

For further information contact:

Jenny Desira on 07468 709405 Email: jenny.desira@food.gov.uk

Noel Sykes on 07917243028 Email: noel.sykes@food.gov.uk

1. Summary

- 1.1 This annual report informs the Business Committee's oversight of these three areas of work. The Business Committee is asked to **agree** the priorities set out below.

2. Introduction

- 2.1 This report presents data and commentary on the FSA's management of: requests made under the Freedom of Information Act 2000 (FOI); external complaints; and internal 'whistleblowing and raising a concern' cases. Delivering to high standards in each of these areas, whilst at the same time keeping processes under review and learning appropriate lessons, is integral to the FSA being an open and transparent organisation.

3. Evidence and Discussion

- 3.1 Data used to inform this report is drawn from the records managed by the FOI and Complaints and Transparency Teams. Using the same data, FOI and 'whistleblowing and raising a concern' reports are routinely submitted to the Cabinet Office and Civil Service Employee Policy, respectively. All data provided applies to **calendar** years (refer to Annex).

Freedom of Information

- 3.2 Refer to **Table 1 and Charts 1 and 2**. In 2020 the FSA processed 146 FOI requests and 77 in the first half of 2021. The data also shows that over time an increasing number of requests are being handled as 'business as usual' (BAU) where the FSA responded in full without recourse to the FOI process. Compliance with the statutory timescales for answering requests remains high at 98% for 2020 and 100% so far for 2021. This compares to the 2020 average across 41 government departments for 2020 of 87%. Whilst the number of FOI

requests has decreased in 2020 and 2021 the number of those which are complex cases has increased. The FOI team continue to provide a quality service to the FSA to support Information Asset Owners to manage requests relating to the information within their remit.

- 3.3 The number of appeals against decisions to withhold information rose slightly from 2 cases in 2019 to 3 cases registered in 2020. The lesson learnt from the one partially upheld case related to reviewing the application of an exemption, with the result that some of the information in scope was subsequently released.
- 3.4 In 2020, one case was escalated by a requestor to the Information Commissioner's Office (ICO) and a second in 2021. The FSA is currently awaiting the outcome of these cases. Given that 583 requests have been processed over the last 3.5 years, this is a low rate of referral to the ICO throughout this time.
- 3.5 In February this year FOI moved to the Knowledge and Information Management Team to sit alongside Data Protection to form an Information Governance function covering all information rights legislation. This means that the Knowledge and Information Management team can provide an integrated openness and privacy service to the rest of the FSA.
- 3.6 It is critical that Information Asset Owners and business leads understand the importance of managing requests, and the FOI team continue to offer awareness raising training, which has been integrated into the overall information management awareness raising plan. The handling of complex cases which cover information from multiple business areas has been improved by implementing collaboration tools to gather and process information in the scope of FOI requests.

Complaints

- 3.7 The FSA's external Complaints Policy applies to formal expressions of dissatisfaction with the FSA, whether that be with its policies, its service, conduct of its staff or other. Details of the FSA's Complaints Policy are available here:

<https://www.food.gov.uk/contactconsumersfeedback/complaints-and-comments-about-the-fsa>

- 3.8 Most formal complaints are treated as local in the first instance, with usually an operational or policy area responding. If a complainant is dissatisfied with this response, they can escalate their case to the FSA Complaints Co-ordinator (the Head of Standards and Reward). If the complainant remains dissatisfied, they can then escalate their complaint to the FSA Chief Executive. After the FSA's complaints procedure is exhausted a complainant may then ask a Member of

Parliament to refer their case to the Parliamentary and Health Service Ombudsman (PHSO).¹

- 3.9 Refer to **Table 2 and Chart 3**. There has been continuing year-on-year reduction in the number of cases received by the FSA and requiring management through the formal complaints process. A similar trend can also be noted in respect of cases responded to at both levels of the FSA's escalation procedure.
- 3.10 Following a continuous improvement review the FSA launched its first public-facing Complaints Policy in June 2019. This Policy and related processes are reviewed regularly, through feedback actively sought from both complainants and complaint respondents. This feedback continues to be generally positive.
- 3.11 Even though all complaints are not fully upheld, the trend of a reducing number of escalated cases indicates the FSA's work to improve the quality of its responses is now returning a benefit for both complainants and the FSA.
- 3.12 Efforts have also been made to improve both accessibility and the customer experience for those expressing dissatisfaction with the FSA. This is reflected in the increased number of cases handled as 'business as usual'. This approach helps ensure that issues are responded to quickly and at the first point of contact where possible whilst avoiding the bureaucracy that comes with a formal process, for both the complainant and the business area concerned. In addition, in 2021 the FSA will launch an internal guide to resolving issues informally in addition to guidance on managing complaints made about its Service Delivery Partner.
- 3.13 Lessons learned from complaints have mainly centred on customer service and clearer communication between all parties. Where appropriate, remedial action has been implemented to prevent a recurrence.
- 3.14 The FSA continues to use the Complaints Assurance Framework (CAF) as the standard developed to offer all government departments the benchmark to work to. The organisation continues to maintain a high degree of alignment to this. The PHSO have recently published new Complaint Standards for the NHS and are in the process of developing a similar product for Government with a completion date of Spring 2022. These Complaint Standards will replace the CAF. The FSA, on invitation, is a member of a reference group that is helping to shape this product and it also remains an active member of the Cross-Government Complaints Forum.
- 3.15 As the FSA continues to improve its handling of formal complaint cases, the opportunity arises to explore more widely other sources of intelligence which collectively should provide the widest possible insight into feelings (whether explicit or implied), of dissatisfaction with the FSA.

¹ <https://www.ombudsman.org.uk/>

Internal Raising a Concern and Whistleblowing

- 3.16 In July 2020 the FSA launched its revised policy for Raising a Concern and Whistleblowing. Whilst this provides staff with the mechanism for reporting internal wrongdoing under the Public Interest Disclosure Act 1998 and/or breaches of the Civil Service Code ('the Code')², greater emphasis is now placed on making the process more accessible and providing support to the individual. An additional feature in the form of a case review by a senior manager has been included, to be used where the individual feels their concern has not been properly addressed.
- 3.17 In 2020, 3 formal referrals were made under the Policy. Two cases related to operational procedural matters and the third to an express allegation of misconduct. In 2 cases no wrongdoing was found, and the third case is ongoing. Findings from investigations into these matters resulted in the implementation of changes to local working practices, including through the contract management process.
- 3.18 Up to June 2021 one referral was made which, following a case review by a senior manager, concluded that wrongdoing was a plausible explanation for the behaviour investigated. This matter is now being taken up through appropriate channels.
- 3.19 The annual Civil Service People Survey includes 3 questions relating to the Civil Service Code. The first question concerns the level of awareness of the Code and the second, the level of awareness of how to raise a concern under the Code. The third question concerns the level of confidence that staff have that a concern raised would be investigated properly. Whilst there is variance across FSA Directorates, for 2020 at corporate level, the FSA sat above the Civil Service benchmark for all 3 questions (95%, 77% and 79% respectively). For the latter question, the FSA has seen a 7% uplift over the last 3 years.
- 3.20 The FSA continues to monitor and improve its provisions for raising a concern including responding to feedback proactively obtained from individuals who have used the process. These measures all support the overall system the FSA makes available to staff to enable them to speak up, and this will continue to utilise recognised good practice within government. To date this has helped inform the structure of this system, the content of guidance, how the FSA engages with and feeds back to the individual and how it investigates cases. Going forward given that the portfolio now sits within the People and Organisational Change function, opportunities arise to develop a holistic 'speak up' approach which embraces all types of concern staff may raise e.g., conduct, bullying, discrimination etc.

² <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

4. Conclusions

4.1 The Business Committee is asked to note and agree the following priorities:

- As FOI is now part of the wider information and data governance function, to review the service offering and to align FOI awareness with the wider responsibilities of Information Asset Owners in the FSA
- Explore opportunities for using the widest feasible evidence base to gain insight into expressions of dissatisfaction provided to, or made about, the FSA
- Use the results of the annual Civil Service People Survey to inform both general but also targeted initiatives in continuing to improve the 'speak up' experience of staff.

Annex

Table 1: Requests made under the Freedom of Information Act 2000 – key statistics

	2018	2019	2020	2021 (Q1 – Q2)
Requests				
Requests dealt with as BAU	28	44	51	19
Requests dealt with under FOI	190	170	146	77
Total number received	218	214	197	96
Compliance				
FOI requests responded to within 20 working days or with a permitted extension to the deadline	186 (98%)	168 (99%)	143 (98%)	77 (100%)
Outcome of FOI requests				
No information held	24%	20%	13%	12%
Information supplied in full	38%	43%	32%	26%
Information supplied in part	23%	17%	27%	34%
All information withheld	6%	5%	10%	10%
Advice and assistance provided	9%	14%	16%	18%
Withdrawn	0%	1%	2%	0%
Internal Reviews (appeals against the original response)				
Number of Reviews	5	2	3	2
Of these still in progress	0	0	0	1
Of those original decision upheld	2	1	2	1
Of those appeal partially upheld	1	1	1	0
Of those appeal fully upheld	2	0	0	0
Complaints to the Information Commissioner's Office				
Number of ICO referrals	0	0	1	1
Decision	-	-	Awaiting outcome	Awaiting instructions
The number of times certain exemptions were engaged by the FSA				

s.35 formulation of government policy	1	1	1	0
s.36 Prejudice to conduct of public affairs	0	1	1	0
s.30 Investigations and proceedings	14	9	4	3
s.31 law enforcement	18	17	8	4
s.40 Personal information	15	13	28	7
s.43 Commercial interests	16	11	19	6
Subject of FOI Requests (percentage)				
	2020	2021 Q1-2	Overall	
Meat operations	14	18	15	
Business process – procurement, IT, telephony etc	10	19	14	
Staff Pay/ ethnicity/expenses/workforce	7	16	11	
Food crime	6	4	5	
Covid-19	5	1	4	
Food hygiene inspections	4	1	3	
Food law prosecutions	1	4	2	
Cannabidiol (CBD) products	7	0	3	
EU Exit	3	0	2	
DNA test speciation	1	0	1	
Religious slaughter/meat – halal, shechita etc	1	0	1	
Salmonella	1	0	1	
Other	40	37	38	

Table 2: Complaints about the FSA - response and outcomes

	2018	2019	2020	2021 (Q1/Q2)
Responded to as BAU correspondence	-	-	9	16
Responded to at local level	25	15	11	5
Not upheld	-	6	6	2
Partially upheld	-	9	4	2
Upheld	-	-	1	1
Responded to by the Complaints Co-ordinator (either on escalation from 'local' or directly)	11	4	2	0
Not Upheld / Declined	5	2	0	0
Partially Upheld	5	2	1	0
Upheld	0	0	1	0
Withdrawn / Unresolved	1	0	0	0
Responded to by the Chief Executive	3	3	0	0

Not Upheld / Declined	2	1	0	0
Partially Upheld	0	2	0	0
Upheld	0	0	0	0
Withdrawn / Unresolved	1	0	0	0
Referred to the Parliamentary and Health Service Ombudsman				
Partially Upheld	0	0	1	0
Declined	1	0	1	0

*Each case originated in 2019

Chart 1: FOI requests

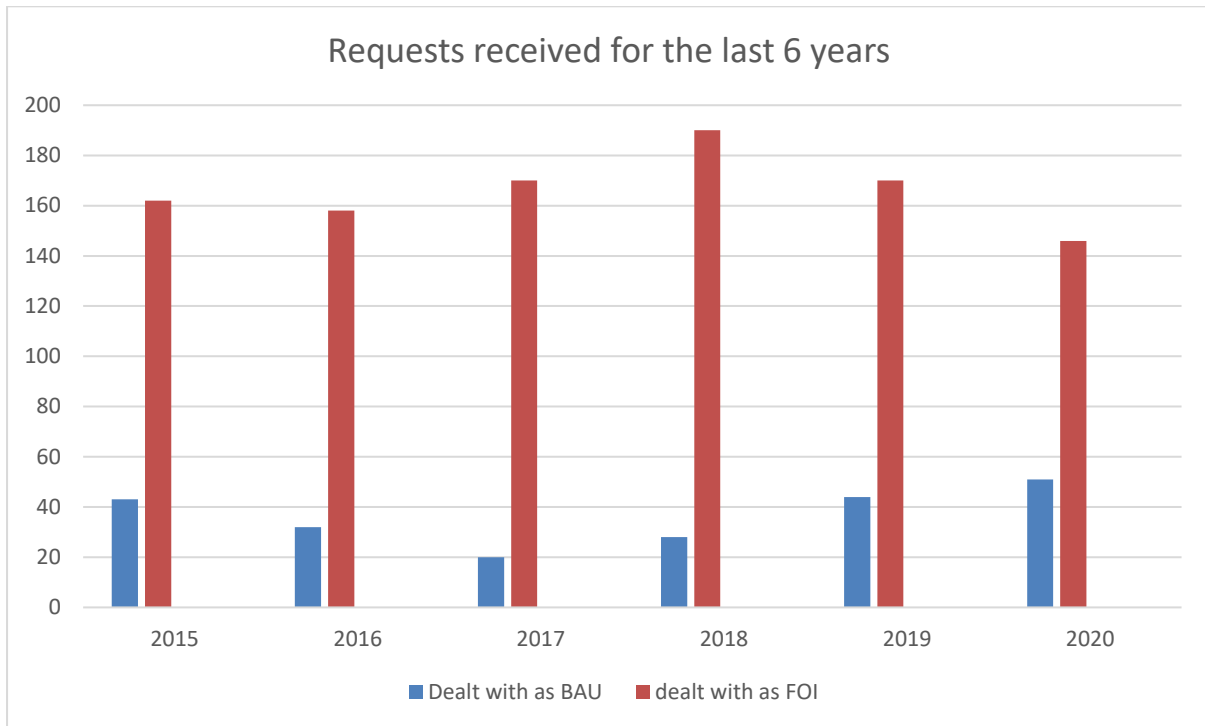


Chart 2: FOI BAU requests

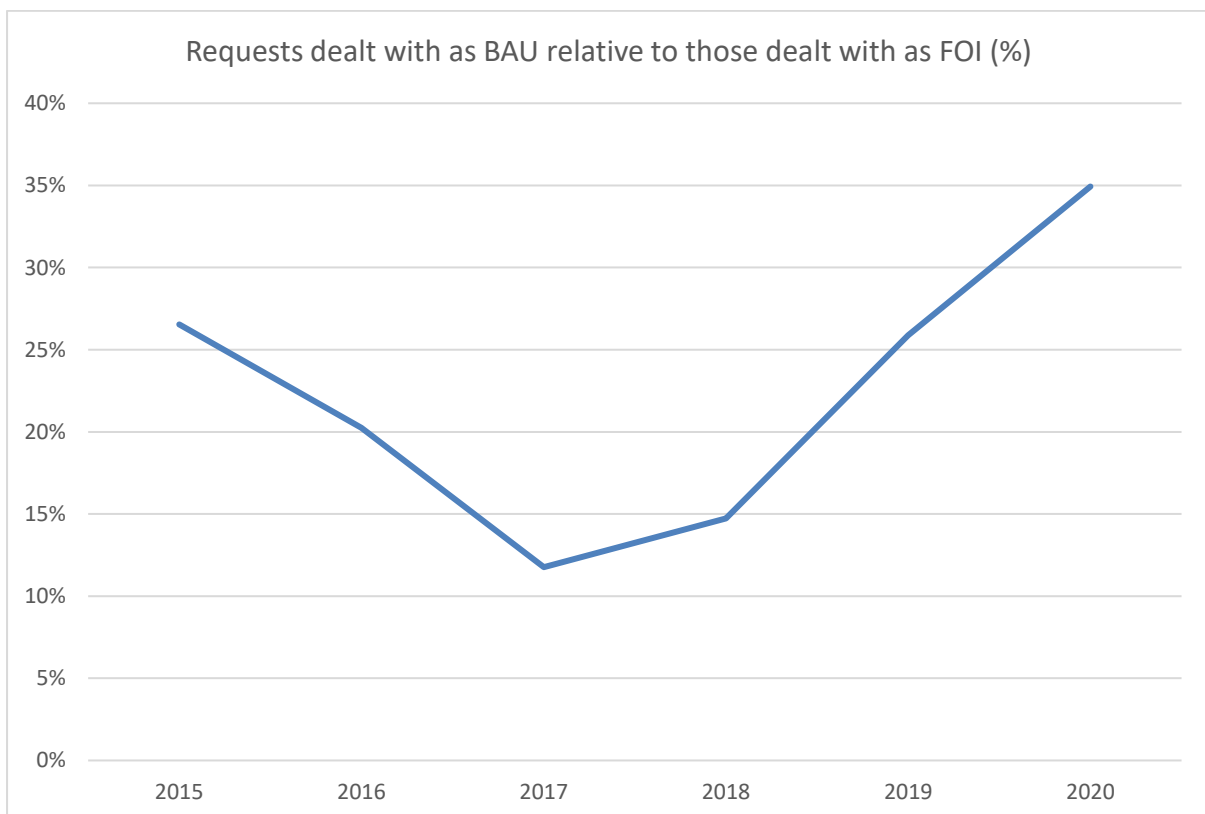


Chart 3: Number of complaints at each stage

