
ANNUAL REPORT: FREEDOM OF INFORMATION REQUESTS, COMPLAINTS AND INTERNAL WHISTLE-BLOWING CASES

Report by Noel Sykes, Head of Openness

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1.0 SUMMARY

1.1 The Business Committee is asked to:

- **Note:** the FSA's performance in complying with its legal obligations under the FOI Act and EIRs;
- **Note:** the number of formal complaints handled;
- **Note:** that in 2015 three whistleblowing complaints were made; and
- **Discuss:** the forward look overview from para 5.11.

2.0 INTRODUCTION

2.1 This paper reports to the Business Committee for the calendar year 2015 and covers the number of:

- requests for information made under the Freedom of Information Act 2000 (FOI Act) and the Environmental Information Regulations 2004 (EIRs);
- formal (external) complaints made to the FSA; and
- internal whistleblowing cases raised with the FSA.

3.0 STRATEGIC AIMS

3.1 The FSA's openness and transparency work supports the FSA in delivering all of its strategic objectives and ensures the FSA complies with its obligations as a government department.

4.0 EVIDENCE

4.1 Data used to inform this report is drawn from the records maintained by the FSA Openness Team. It should be noted that FOI Act data is also routinely reported to the Cabinet Office. All data shown covers calendar years.

5.0 DISCUSSION

Freedom of Information Requests

5.1 The FOI Act and EIRs give a general right of access to all types of recorded information held by the FSA, provide exemptions from that right, and place a number of obligations on us. Any person who makes a request for information must be informed whether the FSA holds that information and, subject to exemptions, be provided with it, or be given reasons why it is not being provided, within 20 working days. Requests may be declined if the cost

of providing the information would exceed a limit of £600 (although in such cases the requestor is likely to receive advice from the FSA on how they can narrow their request to fall within these cost limits).

5.2 **Annex 1** shows our performance on the timeliness of responses and the volume and outcomes of requests that the FSA has received in the three calendar years 2013-2015 (in 2013, the FSA received its highest number of requests to date due to the horsemeat incident).

5.3 The table below shows the range of topics on which FOI Act and EIRs requests were made:

	2013	2014	2015
Total in year	217	173	162
Horsemeat related	62 (28%)	4 (2%)	8 (5%)
Meat operations	30 (14%)	25 (14.5%)	24 (15%)
Business processes (e.g. procurement, IT, resource information)	35 (16%)	38 (22%)	43 (26%)
Food hygiene inspections	15 (7%)	15 (9%)	5 (3%)
Food safety issues (general)	25 (11%)	18 (10.5%)	24 (15%)
Campylobacter	0	10 (6%)	1 (1%)
All other	50 (24%)	63 (36%)	57 (35%)

5.4 **Annex 2** shows a range of exemptions to disclosure applied by the FSA in the three calendar years 2013 - 2015. The FSA's starting point in processing a request will always be to disclose the maximum amount of information requested. However, in making our decisions we must pay adequate regard to our obligations in respect of the exemption provisions of the Act. The need to carefully consider these issues is even more pronounced when dealing with information concerning third parties. Although the numbers are small, if one considers the FSA's record in reviewing decisions internally and also having them referred to the Information Commissioner's Office by the requestor (see last two sections of Annex 1), we can adduce a good degree of confidence in our ability to strike the right balance between disclosure and retention. Undoubtedly what has helped is the investment placed in providing FOI Act awareness training to local operational leads and the continued strengthening of the liaison between these leads and the Openness Team.

Complaints

5.5 The FSA's complaints procedure covers any dissatisfaction with the service that the FSA provides to members of the public or stakeholders. Complaints cover instances where we may have failed to live up to our service standards,

such as delays in replying to correspondence, or where the FSA may not have acted appropriately. Details of the FSA's complaints procedure are available on our website:

<http://www.food.gov.uk/about-us/fsacomplaintsprocedure>

- 5.6 The majority of complaints are handled via local resolution, with the local operational or policy area responding. If a complainant is dissatisfied with this response, they can make a formal complaint to the FSA (known as a stage one complaint), which is usually to the Head of Openness. If the complainant remains unhappy, the complaint can be referred to the Chief Executive (known as a stage two complaint). If they remain dissatisfied at the conclusion of the process, the complainant can ask a Member of Parliament to refer the complaint to the Parliamentary and Health Service Ombudsman.
- 5.7 The table below presents an overview of our complaints handling experience over the three calendar years 2013-2015:

	2013	2014	2015
Complaints received (stage 1)	11	8	20
Not upheld / Dismissed	5	5	15
Upheld	3	2	1
Partially Upheld	1	0	4
Withdrawn /Unresolved	2	1	0
Referred to stage 2	3	2	6
Not upheld /Dismissed	1	1	4
Upheld	1	0	1
Partially upheld	0	0	0
Withdrawn / Unresolved	1	1	1
Referred to Ombudsman	1	0	1
Not investigated	0	0	1
Dismissed but some administrative failings acknowledged	1	0	0

- 5.8 Whilst 2015 showed an increase (to 20 cases), in the number of stage one complaints made, amongst these there is no distinct recurring theme to indicate a significant pattern of concern. Interim examination of 2016 data shows a significant reduction of cases year to date which suggests a year end figure of <10 cases and thus a return to levels comparable to previous years.

Whistleblowing complaints by FSA staff

- 5.9 The FSA Whistleblowing and Raising a Concern Policy was revised in April 2015 to reflect and incorporate recommendations from the Public Accounts

Committee, including signposting support and advice, providing a clear process outlining the appropriate routes for reporting concerns and providing timely feedback to those who 'whistleblow'.

- 5.10 In 2013 and 2014 no whistleblowing complaints were made. In 2015, there were three cases of whistleblowing submitted by staff. One case was brought to a resolution through the provision of policy clarification at local level, one case led to the subsequent revision of the FSA Conflicts of Interest Policy and the final case was referred to the Civil Service Commission by the 'whistleblower' (the decision of the Commission is pending).

Forward Look

- 5.11 The FSA recognises that FOI Act requests and complaint cases represent a useful insight into the external perceptions of the FSA and the interests taken in the work that it does. Since 2015, work has commenced in reviewing the local complaints handling processes we use across the FSA in addition to developing our understanding of where other sources of information may be available internally and what this might offer by way of insight into complaint issues. Collectively we hope this work will maximise the opportunity offered through a single and wider analysis of the complaints picture.
- 5.12 Other plans also include the establishment of an informal complaints network internal to the FSA which will offer the Head of Openness the opportunity to discuss with colleagues what their own channels of communication might be indicating outside the context of any formal complaints procedure.
- 5.13 Through the provision of additional resource to the Openness Team we will provide the opportunity for wider engagement between that team and their colleagues across the FSA. For example this has already provided benefit in allowing the Head of Openness and Finance colleagues to keep under review the approaches made to the FSA following the commencement of the new meat officials charging regime at the start of the 2016/17 year. As at 31 July 2016, FSA Finance had received 52 enquiries from food business operators about invoices raised under the new discounting and charging regime. In response to some of the enquiries about the format of the invoice and the supporting backing schedule FSA Finance is responding by reordering the information to make it more user-friendly.
- 5.14 We will continue to play an active part in the Cross Government Complaints Forum and, through this, contribute to the development of its work in effecting culture change and helping organisations value complaints as a source of feedback to help improve services.
- 5.15 Already planned is a communications campaign to improve understanding of whistleblowing provisions within the FSA amongst managers and staff. We are hopeful that this will further strengthen confidence amongst our people that we are an organisation committed to upholding the values of the Civil Service Code (these being: impartiality; objectivity; honesty; and integrity).

6.0 IMPACT

- 6.1 It is expected that consumers, business and stakeholders will benefit from any improvements we make in how we use FOI Act requests and complaints information to inform our decisions.

7.0 CONSULTATION

- 7.1 This paper has not required any scientific committee, official, public or external consultation.

8.0 LEGAL/RESOURCE/RISK/SUSTAINABILITY IMPLICATIONS

- 8.1 There are no legal, resource, risk or sustainability implications.

9.0 DEVOLUTION IMPLICATIONS

- 9.1 FOI Act and EIR requests and complaint and whistleblowing cases are managed centrally on behalf of all three countries and data analysis and forward look plans equally include the Devolved Administrations.

10.0 CONSUMER ENGAGEMENT

- 10.1 Any emerging new approaches to how we manage the processes related to the FOI Act, EIRs and complaints will make adequate regard to the need for consumer engagement.

11.0 CONCLUSION AND RECOMMENDATIONS

- 11.1 The FSA continues to perform well in its handling of FOI Act and EIRs requests and will continue to improve the processes within, and the opportunities offered by, the complaints area in its widest sense. We will also move ahead with our plans to increase awareness of whistleblowing provisions in the FSA and through this further strengthen confidence amongst staff that we are an organisation committed to the values of the Civil Service Code.

ANNEX 1

Requests made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

Initial Requests	2013	2014	2015
Requests received	217	173	162
Final response sent within 20 working days	186 (86%)	158 (91%)	155 (96%)
Final response sent within deadline with permitted extension	116 (99%)	171 (99%)	159 (98%)
Information was not held	54 (24%)	35 (20%)	22 (13%)
Clarification of request sought but no response received	0	0	7
Resolvable requests (total received less not held)	158	128	140
Information was supplied in full	65 (41%)	79 (61%)	80 (49%)
Information was supplied in part	60 (40%)	37 (29%)	37 (23%)
All information was withheld	18 (11%)	9 (7%)	10 (6%)
Cost would exceed the appropriate limit of £600	12 (8%)	3 (2%)	6 (3%)
Internal Reviews			
Internal Reviews received	11 (7%)	3 (2%)	3 (2%)
FSA decision(s) upheld in full	9	2	2
Decisions upheld in part	2	1	0
FOI challenge upheld	0	0	1
Referrals to the Information Commissioner (ICO)			
Number of ICO referrals	3	1	0
Decision notice issued	2	1	0
FSA decision upheld in full	2	1	0
FSA decision upheld in part	0	0	0
FSA decision overturned	1	0	0

ANNEX 2

Freedom of Information Act: most frequently used exemptions to disclosure

	2013 No. of requests	2014 No. of requests	2015 No. of requests
Total number	217	173	162
Number granted in full:	65	79	80
<i>For the remainder, the principal exemptions for withholding information, of relevance to the FSA, are given below.</i>			
S35 Information relates to the formulation of government policy*	3	0	1
S36 prejudice to the effective conduct of public affairs (requiring agreement of the FSA Chair)*	0	3	1
S30 Information relating to investigations and proceedings*	11	1	4
S31 Information relating to law enforcement*	21	19	15
S40 Personal information, as protected by the Data Protection Act	40	13	20
S41 Disclosure would be an actionable breach of confidence	4	1	0
S43 Commercial interests*	20	9	9

* These exemptions are subject to a public interest test that requires a judgement about whether the balance of the public interest is better served by disclosure or release.