

Working Level Agreement between the Financial Conduct Authority and the Bank of England in respect of certain Freedom of Information Act 2000 ('FOIA') requests

Introduction

1. This working level agreement sets out certain principles agreed by:

- (i) the Financial Conduct Authority ('FCA'); and

- (ii) the Bank of England (the 'Bank'),

- (each an 'Authority' and together 'the Authorities')

and which are to be followed when responding to certain requests for information under FOIA which are of mutual interest.

The Authorities will adopt a coordinated approach to handling such FOIA requests. The overriding principle is that the Authority whose remit is such that it means it is most likely to hold relevant information within the scope of a FOIA request should ordinarily answer the request. This is unless it is clear from the request that the requester is only interested in information that may be held by the specific Authority to whom the request has originally been made. For example, where the information requested relates to prudential regulation matters concerning a dual-regulated firm ('DRF'), it will be ordinarily dealt with by the Bank. Where the information requested relates to a single-regulated firm or conduct matters concerning a DRF, it will be ordinarily dealt with by the FCA.

Liaison

2. The FCA and the Bank will, as appropriate, liaise to discuss live FOIA casework of mutual interest including:
 - a. Mixed Requests – where the information requested has been made to one Authority and seeks access to both conduct and prudential regulation information relating to a DRF and it is not obvious that the requester has targeted their request to a specific authority;
 - b. Transfer Requests – where the information requested from one Authority has been transferred to the other, more relevant, Authority to handle;
 - c. Consultation Requests – where the information requested of one Authority is such that the Authority considers it appropriate to obtain the views of the other Authority;
 - d. Themed Requests – where information is being sought of a similar nature from each Authority on the same subject; and
 - e. Other cases of mutual interest – relating to specific subject matters or issues.

Process for transfer of full, parts of, or mixed FOIA requests

3. The process for the possible transfer of a FOIA request that has been received by one Authority but where it may be more appropriate for either all, or part(s) of the request, to be handled by the other Authority is as follows:
 - a. Incoming request received by receiving Authority A where either part(s) or all of the request more obviously falls within the remit of Authority B. Acknowledgement of receipt should be sent to requester by receiving Authority A in line with usual business practices.
 - b. Details of the information requested, but not the applicant's personal data (eg name and contact details), should be sent as soon as reasonably possible by Authority A to Authority B. Authority B will then decide, where possible within 7 working days of

receiving details of the request from Authority A, whether or not it is content for the whole request or part(s) of it (as the case may be) to be transferred to it. Where Authority B decides not to accept any part of the proposed transfer, its response to Authority A should set out its reasons as to why the whole request (or part or part(s) of the request) should remain with Authority A.

- c. Where Authority B has decided to accept the transfer (in whole or in part as the case may be) and has informed Authority A of its decision to do so, Authority A **will then write to the requester**. In its communication it will suggest that the request (in whole or in part as the case may be) be transferred to Authority B and explain why, provide the contact details of Authority B (see Appendix A), and seek the requester's written consent to the transfer of the request. The requester should also be informed that if they do not reply within 2 months of Authority A's communication, Authority A will consider the case to be closed.
- d. The case should then be closed by Authority A pending a response from the requester.
- e. If the requester responds that they are content for Authority B to handle their request (in whole or in part as the case may be), Authority A should then forward the original full incoming request (with any part request clearly marked if appropriate), transfer notification letter and written consent from the requester to Authority B. Authority B should then begin to handle the request counting the confirmation response from the requester as Day One for FOIA purposes.
- f. If the requester responds that they wish the full request to be handled by the original receiving Authority, then Authority A should inform Authority B and Authority A should begin to handle the request counting the confirmation response from the requester as Day One for FOIA purposes.
- g. If the requester responds that they wish both Authorities to process the request simultaneously in respect of any information held by them, then Authority A should inform Authority B as soon as possible (sending the original incoming request from the requester along with the transfer notification letter and requester's written response) and both Authorities should begin to handle the request counting the confirmation response from the requester as Day One for FOIA purposes. Both Authorities may still need to consult with each other in due course on the handling of the request.

Process for consultation – FOIA consultation requests

4. The process for handling 'Consultation Requests' where Authority A is processing the FOIA request but requires views on the potential disclosure of information under FOIA from Authority B has been agreed as:
 - a. Authority A will provide to Authority B: a copy of the incoming request without the personal data of the requester; copies of any information potentially within the scope of the request on which Authority A is seeking the views of Authority B in relation to disclosure/relevancy etc; and a clear action request with a reasonable deadline for a response by Authority B.
 - b. If the deadline is not feasible, Authority B should contact Authority A as soon as reasonably practicable and agree a new deadline for a response.

- c. Authority B should respond to Authority A in writing, providing clear views on the matters it has been asked to address within the agreed deadline and then close the consultation request it has received.

Process for consultation – themed FOIA requests or other FOIA cases of mutual interest

- 5. The process for seeking the views of an Authority relating to themed requests (i.e. where information is being sought of a similar nature from each Authority on the same subject) or other cases of mutual interest has been agreed as:
 - a. Discussions in relation to any such requests or cases are likely to take place by email or orally. The Authority which is seeking the views of the other Authority on such requests or cases should provide a reasonable deadline for that other Authority to provide its views.
 - b. If the deadline is not feasible, the Authority whose views are being sought should contact the other Authority as soon as reasonably practicable and agree a new deadline to respond.

Reviewed and agreed with the FCA July 2019

Appendix A – Contact Details

Bank of England

Information Access Team
Communications Directorate (TS-Mz)
Bank of England
Threadneedle Street
London
EC2R 8AH

Email: enquiries@bankofengland.co.uk

Web: www.bankofengland.co.uk

Financial Conduct Authority

The Information Disclosure Team
FCA Head Office
12 Endeavour Square
London
E20 1JN

Email: foi@fca.gov.uk

Web: www.fca.org.uk