

30 November 2022

Ref: FOI2022/24616

Freedom of Information Act 2000

Thank you for your enquiry of 2 November 2022, which we have considered under the terms of the Freedom of Information Act 2000 (the FOI Act).

You asked for the following information:

"Your reply to our complaint completely fails to explain in any specific detail how the Fairer Finance report 2017, and any other information available, was assessed, reviewed, and investigated by the FCA, with oversight responsibility by HM Treasury. Can you please provide this detail now.

In addition, please let us know if these concerns of a potential breach by Safe Hands were reviewed / investigated at all by the FCA, with oversight by HM Treasury for breaches of the perimeter?

If they were, please let us know when and what was the outcome of the review / investigations by the FCA and oversight by HM Treasury. If, however, no review / investigation was carried out, and no oversight was carried out, will you please let us know exactly why not? If necessary for a full response, please treat this as a freedom of information request."

Given the background in your letter, for the purposes of this query, we have interpreted your reference to 'issues with Safe Hands' as 'concerns that Safe Hands was in breach of the requirements in the relevant Regulated Activities Order (RAO) exemption' (or similar). The time period we have considered is from 1 January 2017 up to 23 March 2022, given Safe Hands went into administration on 23 March 2022.

Following a search of our records, we can confirm that HM Treasury does hold information within the scope of your request. We are releasing some information, which you will find at Annex A.

Some of the information has been redacted in reliance on section 43(2) of the FOI Act (prejudice to commercial interests). This is a qualified exemption and we have set out below our public interest balance considerations in terms of releasing and withholding the information.

We recognise that there is a public interest in transparency regarding the accountability of public funds: in this instance, the basis of the Government's dealings with pre-paid funeral plan companies and how those interactions take place. We are aware that such transparency can inform public debate on the issues dealt with by the Treasury.

Balanced against this, as an economics and finance ministry, the Treasury relies on information provided by a range of stakeholders to better understand the impact of policy on different sectors. Engagement, trust-based relationships and candid engagement with representatives of different industries is central to Government policy decision making. We consider that the disclosure of information that would be likely to prejudice the commercial interests of third party funeral plan companies would not be in the public interest. It would also be likely to inhibit their future engagement with the Treasury because we consider disclosure of this information would be likely to make it less likely that stakeholders would provide the department with commercially sensitive information in the future; and consequently undermine the ability of the Treasury to gather robust evidence for good decision making. It is important that the Government is able to discuss and develop policies and reach well-formed conclusions.

Given the public interest balance considerations set out above, we conclude that the public interest in withholding the information outweighs the public interest in disclosing it because release would be likely to prejudice the commercial interests of third parties.

We have also redacted some of the information in reliance on section 41(1) of the FOI Act, which regards information provided in confidence.

Section 41(1) provides that information is exempt if disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person. In this case the information was obtained by a third party in confidence. This is an absolute exemption which does not require us to consider the public interest balance in disclosure.

We have redacted third party personal data in reliance on section 40(2) of the FOI Act, by virtue of section 40(3A), which provides an absolute exemption for third party personal data, where disclosure would contravene any of the data protection principles set out in Article 5 of the UK General Data Protection Regulation (UK GDPR). The first data protection principle requires the disclosure of third party personal data to be lawful, fair and transparent. We believe that releasing the information would breach the first data protection principle, since it would be unlawful and unfair to release the information.

If you have any queries about this letter, please contact us. Please quote the reference number above in any future communications.

Yours sincerely

Information Rights Unit

Annex A

10.5.2018 – Treasury officials' meeting with Fairer Finance

- Purpose of the meeting was to discuss Fairer Finance's second report on funeral plans.
- Fairer Finance welcomed the proposal to bring the funeral plan market under FCA regulation – they recognised the practical difficulties in setting up a new statutory regulator from scratch.
- Fairer Finance were keen to highlight the malpractice of Safe Hands in the market.

10.5.2018 – meeting with Fairer Finance

- Purpose of the meeting was to discuss FF's second report on funeral plans.
- FF welcomed the proposal to bring the funeral plan market under FCA regulation – they recognised the practical difficulties in setting up a new statutory regulator from scratch.
- FF noted that the high commission on funeral plan sales leads to bad outcomes for consumers, in particular through high pressure sales tactics.
- FF were keen to highlight the malpractice of Safe Hands in the market.
- FF noted there were currently 3 insurers in the FP market who are regulated by the FCA – RL, Ecclesiastical and SunLife.
- HMT said that we were going to launch a call for evidence into the pre-paid funeral plan market, but that FF were to treat this as confidential.
- N.B. FF met EST shortly after this meeting. EST outlined that the call for evidence would soon be launched, subject to clearance from his cabinet colleagues.

19.7.2017 – meeting with Dignity, Fairer Finance and WA Comms

On 19 July, [Treasury officials met with] [section 40(2)] (Dignity), [section 40(2)] (Dignity), [section 40(2)] (Fairer Finance), and [section 40(2)] (WA Comms) to discuss Fair Finance's recently published Report that assessed whether pre-paid funeral plan sector was working effectively.

Key points were that:

[section 40(2)]

Key facts:

- There are roughly 15 funeral plan providers. A few like, Co-Op and Dignity provide the plans and the actual funeral; others contract to third parties to provide the funerals.
- Market share: Co-Op 25%, Dignity 12%, mid-size firms (e.g. [section 43(2)]) in total make up another 12%, smaller providers make up the remainder.
- £750m funeral plans were sold last year.
- £3bn are currently held in trusts.

[section 43(2), section 41(1)]

Funeral directors:

[section 40(2)]

Board Members of Trusts

[section 43(2), section 40(2)]

FCA and Financial services compensation scheme

- About 75% of consumers surveyed thought that all funeral plan providers are FCA regulated.
- [section 43(2), section 40(2)]

Provisioning for future funeral costs

- [section 43(2), section 41(1), section 40(2)]

Conduct regime

Sales practices of third party agents

[section 43(2), section 41(1), section 40(2)]

section 40(2)

Current regulatory practice

The Funeral Planning Authority

- [section 40(2)]
- [section 43(2), section 41(1), section 40(2)]

[section 43(2), section 41(1), section 40(2)]

Next steps

Officials:

[section 41(1), section 40(2)]

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Email: foirequests@hmtreasury.gov.uk

It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of the review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner will not make a decision unless you have exhausted the complaints procedure provided by HM Treasury which is outlined above.

The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (or via their website at: <https://ico.org.uk>).