

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 9th November 2005

Name of Public Authority: Home Office

Address of Public Authority: 2 Marsham St
London
SW1P 4DF

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the above person (the "complainant") which states that on 22nd March 2005 the following information was requested from Home Office under section 1 of the Freedom of Information Act 2000 (the "Act"):

"(a) Investigation Reports ICU 001/04 to ICU 100/04 inclusive;
(b) Copies of all the DAPS forms relating to each investigation ensuring that in each appropriate instance the DAPS-F.3 'Notification of suspension' is included."

It is alleged that the Home Office:

- (1) failed to respond to the request within 20 working days
- (2) failed in their duty to provide advice and assistance.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

(1) The complainant made his request by letter dated 22nd March 2005. Although there was an initial response, the Home Office did not comply with section 1 until 11th May 2005. The Home Office has therefore not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

Section 10(1) of the Act states:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

(2) In their response to this information request, the Home Office stated only that because the cost of providing the information requested would exceed the appropriate limit, the information would not be provided. The Commissioner believes that the Home Office did not provide sufficient advice and assistance in relation to this information request. For example; no description of how the estimate of costs was made was provided and no suggestion was made that, if the complainant were to refine their information request, it may be possible to provide information at a cost less than the appropriate limit. The Commissioner's decision, therefore, is that the Home Office have failed in their duty to provide advice and assistance as required by section 16(1) of the Act.

Section 16(1) of the Act states:

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

Action Required

Whilst the conclusion in relation to the allegation that the information request was responded to late is that this complaint is upheld, the Commissioner does not require any action to be taken in connection with this as the request was responded to, albeit outside the twenty working day deadline. With regard to the second upheld complaint, that the Home Office failed to offer advice and assistance in connection with this information request, the Commissioner understands that the complainant has since made a number of refined information requests to the Home Office and so further action is not necessary in response to this complaint. In view of these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the Home Office.

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

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| Information Tribunal | Tel: 0845 6000 877 |
| Arnhem House Support Centre | Fax: 0116 249 4253 |
| PO Box 6987 | Email: informationtribunal@dca.gsi.gov.uk |
| Leicester | |
| LE1 6ZX | |

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 9th day of November 2005

Signed:

Reference: FS50087462

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF