

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 25 January 2011

Public Authority: UKBA (Home Office)
Address: 11th Floor
Lunar House
40 Wellesley Road
Croydon
CR9 2BY

Summary

The complainant requested information relating to the length of time taken to reach decisions with regard to refunding fees in 'Indefinite Leave to Remain' cases. The United Kingdom Border Agency (UKBA) responded to the request outside the statutory time limit. The complainant requested an internal review of the handling of his request. UKBA admitted its response did not provide the information requested and rectified the matter. It also accepted that it had breached section 10(1) of the Act concerning time for compliance.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. The Commissioner notes that under the Act the UKBA is not a public authority itself, but is actually an executive agency of the Home Office. Therefore, the public authority in this case is the Home Office. However, for the sake of clarity, this Decision Notice refers to the UKBA as if it were the public authority.

3. On 31 July 2010 the complainant contacted the UKBA requesting the following information:

"...I want to know under the provisions of the Freedom of Information Act 2000 the time taken by your Chief Executive Officer to arrive a decision in similar cases. This is very important as he is a public servant and I believe the tax payers' money must be spent efficiently.

*This is to remind you to revisit my previous application and refund the **£450** [emphasis added by complainant] that the Home Office, UK collected from me in unlawful grounds **as fee for grant of Indefinite Leave to Remain** [emphasis added by complainant]".*

4. On 14 September 2010 the UKBA acknowledged the request.
5. On 21 September 2010 the UKBA responded to the request.
6. On 25 September 2010 the complainant requested an internal review of the UKBA's handling of the request. He remained dissatisfied with the delay involved and the response.
7. On 26 October 2010 the UKBA wrote to the complainant regarding the internal review. It accepted that it had breached the time for compliance and provided a further response to the request.

The Investigation

Scope of the case

8. On 16 September 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that, to date, he had not received a response from the UKBA.

Chronology

9. On 12 November 2010 the Commissioner wrote to the UKBA informing it that a complaint about the handling of the information request had been received.
10. On 12 November 2010 the UKBA responded to the Commissioner regarding the handling of the complainant's request and subsequent internal review.

Analysis

Procedural Requirements

11. Section 10(1) of the Act states that on receipt of a request for information a public authority should comply with the request within 20 working days.
12. From the correspondence provided to the Commissioner it is evident that the UKBA responded to the request outside the statutory time frame. This was acknowledged in the UKBA's internal review. It therefore breached section 10(1).

The Decision

13. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act in that it breached section 10(1).

Steps Required

14. The Commissioner requires no steps to be taken.

Right of Appeal

15. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 25th day of January 2011

Signed

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”