

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Date: 27 May 2010**

**Public Authority:** The Cabinet Office  
**Address:** 70 Whitehall  
London SW1A 2AS

### Summary

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On 3 March 2010 the complainant requested that the Cabinet Office should provide him with information concerning bonus payments to staff in the Office of the Third Sector. The complainant has received no substantive response. The Commissioner therefore finds the public authority to be in breach of section 10(1) of the Act and instructs the Cabinet Office to provide a substantive response or issue a valid refusal notice in accordance with section 17 of the Act.

### The Commissioner's Role

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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

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2. On 3 March 2010 the complainant requested the following information from the Cabinet Office:

*'Please could you tell me how many staff in the Office of the Third Sector received bonuses in the last three financial years and the total value of the bonuses each year?'*

3. The Cabinet Office acknowledged receipt of the request on 9 March 2010.

4. The Cabinet Office informed the complainant that it would respond within 20 working days.

## The Investigation

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### Scope of the case

5. On 7 April 2010 the complainant informed the Information Commissioner's Office that he had not received a response to his request.

### Chronology

6. On 16 April 2010 the Commissioner wrote to the Cabinet Office and asked it to respond within 10 working days of receipt of that letter. The Cabinet Office was asked to state whether the information was held and, if so, either provide the information to the complainant or issue a valid refusal notice.
7. On 6 May 2010 the complainant confirmed that he had still not received a response.

## Analysis

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### Procedural Requirements

8. Section 10(1) (full wording in legal annex) of the Act states the following:

*"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."*

By the date of this notice the public authority has failed to provide a substantive response to the complainant within the statutory time period contained within the provisions set out in section 10(1).

## The Decision

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9. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. The

Commissioner finds the public authority to be in breach of section 10(1) of the Act.

## **Steps Required**

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10. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
  - Provide a substantive response to the complainant or
  - Issue a valid refusal notice in accordance with the requirements of section 17 of the Act.
  
11. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## **Failure to comply**

12. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Right of Appeal

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13. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

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.

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 27<sup>th</sup> day of May 2010**

**Signed .....**

**Gerrard Tracey  
Principal Policy Adviser**

**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.”

**Section 10(2)** provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

**Section 10(3)** provides that –

“If, and to the extent that –

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

**Section 10(4)** provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

**Section 10(5)** provides that –

“Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner.”

**Section 10(6)** provides that –

“In this section –

“the date of receipt” means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”