

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 24 November 2005

**Name of Public Authority:**        **The Home Office**

**Address of Public Authority:**    **Seacole Building**  
   **2 Marsham Street**  
   **London**  
   **SW1P 4DF**

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 9 March 2005 the following information was requested from The Home Office under section 1 of the Freedom of Information Act 2000 (the "Act"):

"A copy of the review carried out by the Home Office into the Fast-track pilot scheme at Harmondsworth Removal Centre (2003)."

It is alleged that the Home Office did not respond to the request within twenty working days, as stipulated in the Act.

#### **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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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:

The complainant submitted her request in a letter dated 9 March 2005. The Home Office sent acknowledgements in letters dated 23 March 2005, and 16 May 2005. In a letter to the complainant dated 25 July 2005 the Home Office apologised for its delay and advised the complainant that, with regard to the information specified in the request, they were considering the balance of the public interest in respect of the qualified statutory exemption allowing the withholding of information relating to the formulation or development of government policy which is set out in section 35 of the Act. In such cases, where public authorities have not reached a decision, public authorities are entitled to an extension to the statutory time limit. This is provided that they

notify an applicant (in writing) that they have not reached a decision and give an estimate of how long this process will take. This must be done within 20 working days following the date of receipt of the original request for information. The period specified by the Act for compliance or refusal of the request for access to information then becomes, under section 17 of the Act, such time as is reasonable in the circumstances.

In this case the need for further time to consider the public interest test was not communicated to the complainant until 25 July 2005. A final response to the request was made on 10 August 2005, where some information and a (partial) refusal notice was sent. The Commissioner's decision in this case, therefore, is the Home Office did not deal with the complainant's request in accordance with the requirements of Part I of the Act in that it failed to comply with section 1(1) or section 17 within the time limit set out in section 10(1) of the Act.

Section 1(1) of the Act states:

"Any person making a request for information to a public authority is entitled-

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

Section 10(1) of the Act states:

"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 17(1) of the Act states:

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or an a claim that the information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies."

## **Action Required**

In view of the fact that the Home Office responded to the complainant's request on 25 July 2005 and 10 August 2005 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:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
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 24 day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF