

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 8<sup>th</sup> February 2006

**Name of Public Authority:** Home Office  
**Address of Public Authority:** 2 Marsham Street  
London  
SW1P 4DF

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 4<sup>th</sup> January 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 Dunbar Report of July 1989'

The 'Dunbar Report' is the report of an inquiry conducted by Ian Dunbar into a riot which took place at HM Remand Centre Risley between 30<sup>th</sup> April and 3<sup>rd</sup> May 1989. The report was submitted to Ministers in July 1989 and a summary was placed in the House of Commons Library.

The Home Office informed the complainant that it does not hold a copy of the Dunbar Report (the "Report"). It is alleged that by not providing the Report, to the complainant, the Home Office is in breach of 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 Home Office passed the complainant's request from its central headquarters to the National Offender Management Service (NOMS). On 27<sup>th</sup> January 2005, the complainant was informed that despite an extensive search the report could not be found.

Following further correspondence from the complainant, the request was passed back to the Home Office. Again, the complainant was informed, by letter dated 2<sup>nd</sup> March 2005, that the report could not be found.

On 7<sup>th</sup> April 2005, the Home Office produced a review of its original decision. The review stated that despite searching a number of branches within the Prison Service, including: the Registry; South West and North West Regional Offices; the Director-General's Office; and, the Security Group, the report could not be found. The search was extended to include the Home Office and the Minister's Private Office and again the report could not be found.

The review stated in conclusion that, "it may well be that copies of the investigation report are no longer held by the Home Office or Prison Service headquarters." Further, it stated that section 12 of the Act allows a public authority not to comply with a request if it estimates that the cost will exceed the appropriate limit of £600 and that as it was felt that this limit had been reached, NOMS intended to take no further action.

Section 1(1) requires a public authority to confirm or deny to an applicant for information whether that information is held. Although the Home Office did not originally state as a matter of fact that the information was not held, the Commissioner has decided that this is implied by the repeated statements that the information could not be found.

The Commissioner sought final clarification from the Home Office, after his investigations with NOMS in relation to this complaint. On 11<sup>th</sup> November 2005, the Home Office confirmed that the report could not be found. Though this suggests that report was destroyed, no evidence of its destruction has been located. In the circumstances, the Home Office has proposed that one of the following explanations clarifies this situation:

1. The report was destroyed but a record of destruction was not logged in any way, or
2. The report was destroyed, a record of destruction was logged but contrary to the relevant policy, a record of destruction was not kept for 20-years, or
3. The full report was never correctly placed on a registered file and is, therefore, not logged in any searchable database and its location is unknown.

The Commissioner accepts that neither the report nor evidence of its destruction can be found by the Home Office. He accepts that this suggests that the Dunbar Report is not held by the Home Office and consequently, it could not be provided to the complainant. He has noted that the age of the document is such that the likelihood of it being retained is less. Therefore, the Commissioner has decided that the Home Office is not in breach of section 1(1).

Section 1(1) 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.”

### **Action Required**

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.

The Commissioner is pleased to note that the Home Office has initiated an internal audit into its records management procedures.

### **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 8<sup>th</sup> day of February 2006

Signed: .....

Graham Smith  
Deputy Commissioner  
Information Commissioner’s Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF