

Freedom of Information Act 2000 (Section 50)

Decision Notice

19 September 2006

Public Authority: HM Treasury
Address: 1 Horse Guards Rd
London
SW1A 2HQ

Summary

The complainant requested all information provided to HM Treasury by the Department of Health concerning an announcement made in the budget statement of 2 July 1997 of the intention to recoup from insurers the full cost of treating road accident victims. The public authority stated that no such information was held. Following his investigation, the Commissioner has found that the public authority failed to respond to the information request within 20 working days. This breach does not necessitate remedial action. The Commissioner has found no evidence that would suggest that the information requested is held by the public authority and does not, therefore, find any breach of Part 1 of the Act in this regard.

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 complainant made the following information request on 24 March 2005:

"In the first budget statement of the Chancellor of the Exchequer made on 2 July 1997, the Chancellor of the Exchequer announced an intention to recoup the full costs of treating road accident victims from insurers. Please furnish all information, costings, advice and other documents whatsoever furnished by the Department of Health to the Chancellor of the Exchequer and the Treasury which may have contributed to the formulation of this intention."
3. The public authority responded to this request on 2 June 2005. This response stated that the information requested was not held.

4. The complainant responded to this on 27 September 2005 and asked that an internal review be carried out.
5. The public authority responded and provided the results of the internal review on 13 March 2006. This response acknowledged that the public authority had failed to respond in accordance with the requirements of section 10 of the Act. The public authority stated that further searches for the information requested had been carried out, but that no information relevant to the request had been located. This response also stated that there was no evidence to suggest that the information requested had been held by the public authority at any time.

The Investigation

Scope of the case

6. On 3 February 2006 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 time taken to respond to the request and the stance of the public authority that the information requested was not held.

Chronology

7. The Commissioner contacted the public authority initially on 19 June 2006. In this letter the public authority was asked to respond to the stance of the complainant that it is inconceivable that the public authority would not hold information supporting an announcement made in a Budget speech.
8. The public authority responded to this on 29 June 2006. In its response the public authority detailed the searches it carried out for the information requested both at the time that the request was initially being responded to, and at the time that the handling of the request was reviewed. The public authority stated that, having carried out a thorough search of its records, no information within the scope of the request had been located.
9. The public authority also stated that, having failed to locate relevant information within its records, the Department of Health was contacted to ask whether it held information relevant to the complainant's request. The Department of Health stated that it held no such information.
10. Further to the above, the public authority stated that it is possible that, given that the Budget speech in question was the first following the election of the Government in May 1997, the policy to which the information request relates could have been formed while the Government was in opposition. This was advanced by the public authority as a possible reason for why it did not hold information relevant to the complainant's request.
11. The Commissioner contacted the complainant on 6 July 2006. The complainant

was advised that the stance of the public authority remained unchanged in that it maintained that the information requested by the complainant was not held. The complainant was asked to advance any further arguments or evidence that he wished the Commissioner to take into account.

12. The complainant replied on 19 July 2006. The complainant stated that he did not accept that the public authority did not hold supporting information about a policy announced in a Budget speech.
13. The Commissioner contacted the public authority on 25 July 2006 for further clarification. The public authority was asked to respond to the following:
 - Is the stance of the public authority that the information requested by the complainant has not existed at any time?
 - Further to the above, if the stance of the public authority is that information relevant to the complainant's request was previously held but has since been disposed of, was the information disposed of in accordance with the retention policy of the public authority?
 - Is the stance of the public authority that no information is held relating to the relevant announcement made by the Chancellor, or does this stance relate only to information supplied to the public authority by the Department of Health?
14. In response to this, the public authority stated that its position is that the information requested had not been held by it at any time. The public authority also confirmed that no information related to the Chancellor's statement had been located, either produced by the public authority or provided to it by any other body.
15. Further to this, the public authority also advised that the policy of recouping the costs of treating road accident victims from insurers was not a new Government policy in 1997, but had initially been introduced in the 1930s and retained through subsequent Road Traffic Acts since that time. In 1994 the Department of Health issued guidance to health trusts setting out procedures for maximising income associated with this policy. The public authority advised that the proposed amendment to this policy announced in the 2 July 1997 Budget speech appeared to be that the full costs of treatment should be recouped.

Findings of fact

16. The public authority did not respond to the information request within 20 working days.
17. The public authority's position is that the information requested is not held. The public authority considers it unlikely that it previously held this information.
18. The complainant believes that the public authority would hold information in support of an announcement made by the Chancellor in a Budget speech.

Analysis

19. The Commissioner appreciates the position of the complainant in that it is a reasonable belief that the public authority would hold information related to an announcement made in a Budget speech. However, the Commissioner notes that the request was not for all information held by the public authority about the announcement in question, but only for information supplied to the public authority by the Department of Health. Aside from this, the Commissioner has been advised by the public authority that they do not hold any information that was produced either by it, or by any other body, that is within the scope of the information request.
20. The Commissioner is satisfied that the public authority has taken appropriate steps to attempt to locate the information requested. The Commissioner is satisfied with the explanation provided by the public authority. There is no evidence available to the Commissioner that suggests that information within the scope of the request is held by the public authority.

The Decision

21. Firstly, the Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act in that it complied with the requirements of section 1(1) of the Act.
22. Section 1(1) of the Act states that:

“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.”
23. Secondly, the Commissioner's decision is that the public authority did not deal with the request in accordance with the Act in that it did not comply with the requirements of section 10(1) of the Act.
24. Section 10(1) of the Act states that:

“...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.”

Steps Required

25. Although the Commissioner finds that the public authority failed to comply with section 10(1) of the Act, remedial action is not necessary to resolve this breach. Therefore, the Commissioner requires no steps to be taken.

Right of Appeal

26. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

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

Dated the 19th day of September 2006

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**