

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 29 October 2007

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

Summary

The complainant requested information about the cost of providing Mrs Blair with the use of an official car including the actual cost of the car. The Cabinet Office withheld some of the information under section 38 of the Act, supplied some information and found that some of the remainder of the requested information was not held. The Commissioner investigated the application of section 38 and considered whether any additional information was held by the Cabinet Office. The Commissioner finds that the Cabinet Office has misinterpreted part of the complainant's request and therefore not dealt with the request in accordance with the requirements of part 1 of the Act. The Commissioner also finds that section 38 is engaged and that the public interest lies in maintaining the exemption. The Commissioner requires the Cabinet Office to respond to the complainant's request which it has not yet addressed.

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 has advised that on 9 April 2006 he made the following request for information to the Cabinet Office:

"1. For how long has Cherie Blair, the Prime Minister's wife had the use of an official car and driver provided at the expense of the Tax Payer?"

2. Could you please provide details of the specific vehicles which have been allocated for the use of Mrs Blair?

3. Could you please specify how much these particular vehicles cost to buy or rent? Could you also provide full details of other costs connected with these arrangements. These costs should include among other things the monies spent on fuel, road tax, maintenance and wages. These figures should be provided on an annual basis.

4. What rules govern the provision and use of these vehicle(s) by Mrs Blair?

5. Why has it been felt necessary to provide Mrs Blair with a car and or driver out of public funds?

6. Could you please provide all correspondence between Mrs Blair and the Government concerning the provision and use of these travel arrangements / facilities? This correspondence should include any emails, telephone transcripts, memos, notes and letters.

7. Is a record kept of how many times and for what reasons Mrs Blair uses the car and driver?

8. Whether a record is kept or not could you please detail all instances in which the car and or driver has been used by Mrs Blair over the course of the last 12 months?

3. On 10 May 2006 the Cabinet Office responded informing the complainant of the reasons for the provision of a car to Mrs Blair and the time that this decision was made. The Cabinet Office also informed the complainant that the car was supplied in line with standard practices for those in receipt of personal protection. The Cabinet Office stated it did not hold a detailed record of the instances in which the car was used and that the remaining information was exempt under section 38 of the Act.
4. The complainant requested an internal review of this decision on 15 May 2006.
5. The Cabinet Office undertook an internal review and communicated its findings to the complainant on 7 August 2006. In the internal review the Cabinet Office gave the complainant more detail in relation to points one, two, four and five of his request. Additionally it stated that it did not hold information in respect of points seven and eight and the second part of point 3 of the request explaining that the car is used by Mrs Blair and number 10 staff.
6. The Cabinet Office enclosed information on the cost of official vehicles provided to various departments but continued to withhold the information requested in the first part of point 3 of the complainants request under section 38.

The Investigation

Scope of the case

7. On 8 August 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 application of section 38 and to investigate the fact that the Cabinet Office stated it did not hold the information but did not advise the complainant of who did or might.

Chronology

8. The Commissioner began his investigation by contacting the complainant on 11 January 2007 to clarify the scope of the investigation. The Commissioner also outlined his position regarding the time taken to complete the internal review.
9. The complainant responded on 17 January 2007 explaining to the Commissioner that he did not believe the information provided to him by the Cabinet Office answered his question in points 1, 2, 4 and 5 and that he did not accept that it did not hold information relevant to his request in points 3, 6, 7 and 8.
10. The Commissioner contacted the Cabinet Office on 19 January 2007. The Commissioner asked the Cabinet Office to consider if any further information was held other than that already disclosed or if it was aware if any information was held by another public authority. The Commissioner also asked the Cabinet Office to comment further on the application of section 38 and the public interest test.
11. The Cabinet Office responded on 26 March 2007 informing the Commissioner that in its responses to the complainant it felt it had answered the questions in points 1, 2, 4 and 5. The Cabinet Office also stated that it was not aware that the information was held by another public authority in relation to points 6, 7 and 8.
12. In response to the second part of the third request (3 (b)), the Cabinet Office stated it did not hold information as the car was used by other staff within the Prime Minister's Office and no money was specifically allocated to Mrs Blair. In relation to the first part of point three the Cabinet Office provided further arguments regarding the applicability of section 38 and the public interest arguments considered.
13. The Commissioner wrote to the Cabinet Office again on 29 March 2007. In his letter the Commissioner pointed out that in point one of the request, the complainant specifically asked for how long Mrs Blair has had use of an official car and whilst the Cabinet Office had provided information which demonstrated approximately when this decision was taken it did not address the question fully. The Commissioner asked the Cabinet Office if a specific date from which the car use was authorised could be disclosed to the complainant.
14. In relation to the first part of the third request the Commissioner asked the Cabinet Office to answer further questions regarding the application of section 38.

- In relation to part 3(b), the Commissioner emphasised to the Cabinet Office that whilst Mrs Blair was the focus of the request this question had asked for costs associated with the car and not Mrs Blair and therefore asked the Cabinet Office to reconsider if further information could be disclosed in relation to this point.
15. The fourth part of the request was for the rules governing the use of the car. The Commissioner asked if there was further information in addition to that already supplied to the complainant in the form of, for example, a standard set of rules and if so that this be considered for disclosure.
 16. The Cabinet Office responded on 20 April 2007. In response to the questions raised by the Commissioner the Cabinet Office stated that it did not believe that it would be in the public interest to confirm the exact date of the security assessment and reiterated its arguments for withholding the cost of the car under section 38. The Cabinet also stated that it would be happy to clarify to the complainant that the Prime Ministers' wife is also subject to the Travel by Minister Rules when using an official car.
 17. On 14 May 2007 the Commissioner wrote again. The Commissioner informed the Cabinet Office that as the request from the complainant had been for the exact date from which an official car had been supplied the Cabinet Office needed to disclose this information or apply an exemption. The Commissioner also asked for more information as to how section 38 had been applied and reiterated the previous request for information about the costs associated with the car. The Commissioner also asked the Cabinet Office to confirm with the complainant the rules applicable to Mrs Blair when using an official car and if it was now prepared to release this information to the complainant.
 18. The Cabinet Office responded on 5 July 2007. The Cabinet Office confirmed that it would now supply to the complainant the date from which the car was supplied and a copy of the rules governing the use of official cars, 'Travel By Ministers', which are also applicable to Mrs Blair. In relation to the cost of the car the Cabinet Office reiterated its previous arguments regarding the application of section 38. In relation to the complainants other request, for the costs associated with the car, the Cabinet Office explained that the car was used for No10 staff as well as Mrs Blair and that the costs associated with Mrs Blair were not separately identifiable.

Findings of fact

19. The Cabinet Office has provided answers to the complainant's requests in points 1, 2, 4 and 5. In responding to the requests in points 6, 7 and 8 the Cabinet Office states the information is not held.
20. The remaining information being withheld is the information requested in point 3 of the complainant's request.

Analysis

Procedural matters

21. The complainant requested in parts 6 ,7 and 8: correspondence between Mrs Blair and the government concerning the provision and use of an official car; whether a record is kept of the times and reasons for her use of the car; and details of all instances in which the car has been used by Mrs Blair.
22. The Cabinet Office has stated that it does not hold any information relating to the provision or use of the travel arrangements as requested above.
23. During the course of the investigation the Commissioner queried with the Cabinet Office whether it was aware if the information may be held by another department and if so if it had considered transferring the complainant's request or advising him of who might hold the information.
24. The Cabinet Office confirmed that it is not aware if the information requested in points six, seven and eight is held by another public authority or government department. In reaching a decision the Commissioner considered if this was information he would expect the Cabinet Office to hold; if there was any evidence that the information was once held. The Cabinet Office confirmed that the information was not held nor ever had been held. The Commissioner also considered whether there was any legal requirement for the Cabinet Office to hold the information and if the Cabinet Office had any reason to conceal the information. The Commissioner could not find any legal requirement for the information to be hold or any reason as to why the Cabinet Office would conceal the requested information. The Commissioner is satisfied that the Cabinet Office does not hold the requested information in part six, seven and eight of the request.
25. The complainant requested in points one, two, four and five for: how long Mrs Blair has had use of an official car; details of the vehicle allocated to Mrs Blair; the rules governing the use of the car and why a car has been provided to Mrs Blair.
26. The Cabinet Office has disclosed to the complainant: the month and year in which the use of the car was authorised; the make and model of the car; a copy of the rules governing the use of the car and that the car was supplied following a review of security arrangements following 11 September 2001.
27. The Commissioner is satisfied that the Cabinet Office supplied the information requested in parts one, two, four and five of the complainants request.

Section 1 'General Right of access to information held by public authorities'

28. Section 1 provides that any person making a request for information to a public authority is entitled to (a) be informed in writing by the public authority whether it holds information of the description and (b) if that is the case, to have that information communicated to him.

29. Part 3(b) of the complainant's request was for the costs associated with the provision of the car such as fuel cost and tax. The Cabinet Office in its internal review informed the complainant that the detailed information about the money spent on fuel, maintenance, road tax and wages is not held by the Cabinet Office.
30. In the Cabinet Office's letter to the Commissioner 26 March 2006 the Cabinet Office further clarified that:

"Mrs Blair does not have sole use of the official car that she does use, a Ford Galaxy is also used by members of staff within the Prime Minister's Office when carrying out official business. As Mrs Blair does not have sole use of an official car no money is specifically allocated to Mrs Blair for these items and would not therefore be held by another public authority."
31. The Commissioner wrote to the Cabinet Office on 29 March 2006 outlining his interpretation of part 3 (b) of the complainant's request. The Commissioner explained that whilst the focus of the request was on the provision of an official car to Mrs Blair, the request in point 3 (b) asked for the cost of the car and the costs associated with the provision of the car and did not ask for this to be broken down to those associated with Mrs Blair. The Commissioner asked if in light of this the Cabinet office could consider if this information is held and if so, disclose it to the complainant.
32. In the response sent to the Commissioner on 20 April 2007 the Cabinet Office did not address this issue.
33. The Commissioner wrote again on 14 May 2007. He explained to the Cabinet Office that in his letter of the 29 March 2007 he had highlighted that 3 (b) of the complainant's request was for the costs associated with the provision of the car and not the costs associated with the car broken down to those associated with Mrs Blair's use of the car. The Commissioner asked the Cabinet Office to respond to the point 3(b) of the request in light of this.
34. On 5 July 2007 the Cabinet Office responded explaining that it was not possible to provide the information requested about the costs associated with providing Mrs Blair with an official car as the car is used by No10 staff as well as Mrs Blair.
35. The complainant's request in point 3 was:
 - (a) Could you please specify how much these particular vehicles cost to buy or rent?
 - (b) Could you please provide full details of other costs connected with these arrangements. These costs should include among other things the monies spent on fuel, road tax, maintenance and wages. These figures should be provided on an annual basis.
36. The Cabinet Office has withheld the requested information in (a) under section 38 of the Act. The Commissioner finds that the Cabinet Office has failed to address part (b) of the request as it has misinterpreted the request to be for the 'costs

associated with providing Mrs Blair with an official car'. The Commissioner interprets the request to be for the costs associated with the official car used by Mrs Blair and not the costs associated with providing Mrs Blair with an official car.

37. In reaching a decision the Commissioner considered the recent Tribunal Decision *EA/2006/0049 and 50 'Berend / Richmond Borough of Kingstom upon Thames* which concluded that a public authority may genuinely fail to recognise that there is an alternative, broader, objective interpretation to a request than the one it has applied. This will lead to the public authority failing consider the information captured by the broader interpretation, this would constitute a breach of section 1. In misinterpreting the request in point 3(b) the Cabinet Office has not conformed to the requirements of section 1 of the Act. The Commissioner requires the Cabinet Office to respond to the complainant's request in line with the requirements of section 1.

Exemption: Section 38 'Health and Safety'

38. Section 38 provides that information is exempt information if its disclosure under this Act, would, or would be likely to (a) endanger the physical or mental health of any individual or (b) endanger the safety of any individual.
39. The Cabinet Office has explained that disclosing the cost of the car would reveal the level of security modifications made to the official cars provided to the Prime Minister's Office, including those used by Mrs Blair, and would therefore not be in the public interest. The Cabinet Office stated that by comparing the 'list' price of the vehicle against the cost of the vehicle to the Cabinet Office, would reveal the difference in price and therefore the level of security modification.
40. The Cabinet Office disclosed to the complainant information in a table format on the cost of ministerial vehicles to various government departments. The table contains three columns: department; number of ministerial cars; and contracted cost. For two departments there was only one ministerial car and therefore the contracted cost shows the actual cost for a single vehicle. The Commissioner queried how this disclosure of information differed from that requested by the complainant. In response the Cabinet Office stated that where the actual cost of a car can be identified, the department was not supplied with a car on the grounds of security, but logistics.
41. The Cabinet Office explained that where a car is supplied on the grounds of security it would not be appropriate to provide the actual cost of a car on the grounds that to do so could identify whether the vehicle has been modified as it would be possible to work out whether the cost is significantly different from a manufacturer's published listing which would reveal the level of security modification made. The Cabinet Office stated that in line with current policy, other than the fact that Mrs Blair receives personal protection, no information about that protection is ever made public, and the detail of that protection is never under any circumstances ever publicly commented upon.
42. The Cabinet Office continued to explain that the effective protection of Mrs Blair depends, to a great extent, on maintaining the confidentiality of the arrangements in place to secure that protection. The disclosure of any information about that

protection provides a 'way in' for those who wish to target her, jeopardising the integrity of the arrangements and the safety of Mrs Blair and others.

43. The Commissioner recognises the importance of ensuring no details are revealed which could jeopardise the confidentiality of the security arrangements put in place to protect Mrs Blair and others. The Commissioner also recognises that the risk, no matter how small, that disclosure of the cost of the official car could reveal details of any security modification and therefore provide assistance to any one wishing to target Mrs Blair or others, is significant.
44. In reaching his decision the Commissioner has considered that by disclosing the actual cost of the vehicle it would be clear if this figure was in excess of the standard price for the vehicle in questions. This could have two effects. If the figure is not in excess of the usual cost for the vehicle it would reveal to the public that no security modifications had been made to the vehicle or if the figure is significantly higher than expected it would reveal that a potentially high level of modifications have been made.
45. In both scenarios the Commissioner finds that there is a real and significant risk that disclosure of the cost of the car, along with the already disclosed make and model of the car, would reveal information that enables the degree of security modifications made to be determined.
46. The Commissioner finds that section 38 is engaged as disclosure of the information would, or would be likely to endanger the physical or mental health of any individual or endanger the safety of any individual.

Public Interest Test

47. Section 38 is a qualified exemption and is therefore subject to the public interest test. The Cabinet Office has argued that the public interest lies in maintaining the exemption.
48. The Cabinet Office state that providing the actual cost of the car could enable individuals to identify whether any security modifications have been made and this would be contrary to the public interest as it could undermine the security arrangements in place. The Cabinet Office considers there is an exceptionally strong public interest in doing everything reasonably possible to minimise the risk to the safety of Mrs Blair and those involved in her personal protection.
49. The Cabinet Office accept that there is a public interest where the expenditure of tax payers money is involved and explained that it already discloses information about the cost of official vehicles provided to various government departments including the Cabinet Office. These figures show the department, the number of cars and the annual contracted value.
50. The Commissioner has considered the importance of transparency and promoting accountability in the spending of public money. However, the Commissioner does recognise that the Cabinet Office has already published figures at department

level on the cost of vehicles and agrees that this goes some way in serving the public interest in ensuring accountability.

51. The Commissioner has also considered the information itself and recognises that it is unlikely that the public interest would be best served by disclosing information which would put at risk a person's safety. The Commissioner has found that there is a 'real and significant' risk that disclosure of the cost of the vehicle could reveal the level of security modifications made to it and that this in turn could provide those who may have wished to harm Mrs Blair or others with information to aid them in this. The Commissioner does not consider that disclosure, in more detail than that already provided, would best serve the public interest.
52. In addition whilst the Commissioner accepts that it would interest the public to see how much the car provided for the use of Mrs Blair cost, this is not the same as a strong public interest in disclosure. The Commissioner finds that the Cabinet Office already goes some way in satisfying the public interest in promoting accountability and transparency in the spending of public money through the disclosure of the amounts spent on official cars by department.
53. The Commissioner has concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure of the requested information.

The Decision

54. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

- i. The Application of section 38

However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- i. Section 1 of the Act in relation to part 3(b) of the complainant's request.

Steps Required

55. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
 - i. Respond to part 3(b) of the complainant's request in line with the requirements of part 1 of the Act.

Failure to comply

56. 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

57. 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 29th day of October 2007

Signed

**Richard Thomas
Information Commissioner**

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

Legal Annex

General Right of Access

Section 1(1) provides 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.”

Section 1(2) provides that -

“Subsection (1) has the effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.”

Section 1(3) provides that –

“Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.”

Section 1(4) provides that –

“The information –

(a) in respect of which the applicant is to be informed under subsection (1)(a), or

(b) which is to be communicated under subsection (1)(b),

is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.”

Section 1(5) provides that –

“A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).”

Section 1(6) provides that –

“In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.”

Health and safety

Section 38(1) provides that –

“Information is exempt information if its disclosure under this Act would, or would be likely to-

- (a) endanger the physical or mental health of any individual, or
- (b) endanger the safety of any individual.”

Section 38(2) provides that –

“The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, have either of the effects mentioned in subsection (1).”