

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 5 February 2008

**Public Authority:** HM Revenue and Customs  
**Address:** 100 Parliament Street  
London  
SW1A 2BQ

### Summary

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The complainant asked the public authority for information about the resignation of Sir David Varney from the public authority and his appointment as the Chancellor's adviser on Transformational Government. The public authority provided the information which it held, having redacted the distribution lists for any emails included. The complainant expressed his doubts to the Commissioner that the public authority had provided all relevant information. After obtaining the public authority's comments and investigating the matter, the Commissioner concluded that there was no evidence that any further information might be held, and therefore decided that the public authority had discharged its obligations under 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 16 January 2007 the complainant requested from HM Revenue and Customs (HMRC) the following information:

*'the information you hold (including memos, meeting minutes and any other information) on the resignation of Sir David Varney from HMRC and the background to it; and similarly any information you have on his appointment as the Chancellor's adviser on Transformational Government'.*

HMRC acknowledged the request on the same day.

3. HMRC wrote to the complainant on 13 February 2007, enclosing copy documents. It stated that the large distribution list which some of the emails contained had been redacted. It also claimed that the information was protected by the Copyright, Designs and Patents Act 1988: while the complainant was free to use it for his own purposes, including non-commercial research or news reporting, any other re-use would require the permission of the copyright holder. It referred to a website where further details about the rules could be accessed. It advised the complainant of its internal review procedure and of his right to complain to the Information Commissioner.
4. The complainant contacted HMRC again on 14 February 2007. He indicated that the information provided had failed to cover all of his request, and he also expressed his disbelief that there were no further minutes, memoranda or emails in which the resignation was mentioned. He asked HMRC to reconsider its response. He forwarded this email to HMRC again on 13 March, indicating that he was requesting an internal review.
5. HMRC replied on 28 March 2007. It stated that when handling the original request it had *'carried out a very thorough search of all the areas where that information might have been held'*, and therefore concluded that there was no further information which it could provide. It advised him of his right to complain to the Commissioner.

## The Investigation

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### Scope of the case

6. On 14 March 2007 – the day after his internal review request – the complainant contacted the Commissioner to complain about the way his request for information had been handled. He indicated that he found it hard to believe that the information which had been provided constituted everything held by HMRC, and expressed his concern that the public authority had therefore failed in its obligations under the Act.

## Chronology

7. The complainant approached the Commissioner before HMRC had dealt with his internal review request. However, HMRC completed the review on 28 March 2007 and the Commissioner then commenced his investigation. He wrote to HMRC on 19 October 2007 for its comments. HMRC replied on 8 November 2007.

## Analysis

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8. The complainant expressed his doubts that HMRC had provided all the information which it held that fell within his request. The Commissioner asked HMRC to comment on this point. Its response was to accept that it had been unable to provide much information. However, it pointed out that *'appointments at senior levels like this are handled by the Cabinet Office rather than internally within departments'*. The Commissioner accepts that this could explain why HMRC did not hold as much information as the complainant expected.
9. In any event, HMRC has confirmed to the Commissioner that it has searched the most likely areas in which information might be held, including the files of its Chairman, HMRC Board and its Human Resources section, and that it has sent all the identified information to the complainant. The Commissioner has reviewed the information provided and this does not indicate that any other information may exist. In the absence of any specific evidence that further information might be held, the Commissioner takes the view that HMRC has discharged its obligations under the Act.

## The Decision

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10. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act.

## Steps Required

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11. The Commissioner requires no steps to be taken.

## Other matters

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12. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matter of concern. Section VI of the Code of Practice (provided for by section 45 of the Act) makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information. As he has made clear in his *'Good Practice*

*Guidance No 5'*, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review.

13. In exceptional circumstances it may be reasonable to take longer, but the total time taken should not exceed 40 working days, and as a matter of good practice the public authority should explain to the requester why more time is needed. Furthermore, in such cases the Commissioner expects a public authority to be able to demonstrate that it has commenced the review procedure promptly following receipt of the request for review and has actively worked on the review throughout that period.
14. The complainant's internal review request was made on 14 February 2007. HMRC sent its internal review decision to him on 28 March 2007. HMRC therefore took 30 working days to complete the review. The Commissioner does not believe that any exceptional circumstances existed in this case that to justify that delay, and he therefore wishes to register his view that HMRC fell short of the standards of good practice in failing to complete its internal review within a reasonable timescale.

## Right of Appeal

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15. 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@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.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 5<sup>th</sup> day of February 2008**

**Signed .....**

**Gerrard Tracey  
Assistant Commissioner**

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

## Legal Annex

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**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'.'