

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Date: 25 January 2011**

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

#### Summary

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The complainant requested a number of financial reports concerning grant aid provided by ACPO to the Home Office. The complainant did not receive a substantive response within the statutory time frame and therefore contacted the public authority to request an internal review. The public authority completed the internal review acknowledging the delay in responding and confirmed information was held. The complainant contacted the Commissioner to complain about the handling of his request. During the course of the investigation the public authority responded providing the information to the complainant. The Commissioner finds the public authority to have breached section 1(1)(b) and section 10(1) of the Act. He requires no further steps to be taken by the public authority.

#### 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 May 2010 the complainant requested the following information.

*"Under their contracts with you for "grant-in-aid", ACPO is required to provide you with a variety of reports - for example, quarterly financial reports, annual reports and annual accounts.*

*Please could I have a copy of all such reports (i.e. any required to be provided under the grant-in-aid contracts) from the 2006/7 financial year onwards."*

3. On 15 June 2010 the complainant requested an internal review due to the lack of a substantive response from the public authority.
4. On 22 June 2010 the public authority responded to the complainant to acknowledge the request and apologise for the delay in providing a substantive response.
5. On 27 July 2010 the public authority completed the internal review and found that it had breached section 10(1) of the Act in failing to respond within 20 working days.
6. On 4 August 2010 the public authority responded to the complainant and provided the requested information.

## **The Investigation**

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### **Scope of the case**

7. On 16 July 2010 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 fact that he had not received a substantive response to date.

### **Chronology**

8. On 17 September 2010 the Commissioner acknowledged the complaint.

## **Analysis**

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### **Substantive Procedural Matters**

#### ***Section 1 – General Right of Access***

9. Section 1(1)(a) of the Act (full wording can be found in the Legal Annex) states that on receipt of a request for information a public authority should confirm whether information is held within the statutory time frame. The Commissioner will find a public authority in breach of section 1(1)(a) if it failed to do this within 20 working days or by completion of the internal review.

10. In this case the Commissioner accepts that the public authority confirmed information was held by the time of the internal review.
11. Section 1(1)(b) of the Act (full wording can be found in the Legal Annex) states that if the requested information is disclosable, the public authority should provide the information to the applicant within the statutory time frame.
12. The Commissioner notes that while the public authority did ultimately disclose the requested information it failed to do so within the statutory time frame and by the completion of the internal review.

### ***Section 10 – Time for Compliance***

13. Section 10(1) of the Act (full wording in the Legal Annex) states that on receipt of a request for information a public authority should respond to the request within 20 working days.
14. The correspondence involved in this case provided the Commissioner with evidence that the public authority did not respond within the statutory time frame.

### **The Decision**

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15. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. In failing to comply with the request within 20 working days the public authority breached section 1(1)(b) and section 10(1) of the Act.

### **Steps Required**

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16. The Commissioner requires no steps to be taken.

### **Other matters**

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17. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern.

Part VI of the Act's section 45 Code of Practice 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, and that the procedure should encourage a prompt decision. As he has made clear in his 'Good Practice Guidance No 5', 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 or, in exceptional circumstances, 40 working days. In this case the public authority exceeded the 20 working days timeframe. The Commissioner does not believe that any exceptional circumstances existed to justify that delay, and he therefore wishes to register his view that the public authority fell short of the standards of good practice by failing to complete its internal review within a reasonable timescale. He would like to take this opportunity to remind the public authority of the expected standards in this regard.

## Right of Appeal

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18. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

19. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Dated the 25<sup>th</sup> day of January 2011**

**Signed .....**

**Jon Manners  
Group Manager, Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

### General Right of Access

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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”.

**Time for Compliance**

**Section 10(1) provides that –**

“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 10(2) provides that –**

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

**Section 10(3) provides that –**

“If, and to the extent that –

(c) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or

(d) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

**Section 10(4) provides that –**

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later

than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

**Section 10(5) provides that –**

“Regulations under subsection (4) may –

- (e) prescribe different days in relation to different cases, and
- (f) confer a discretion on the Commissioner.”

**Section 10(6) provides that –**

“In this section –

“the date of receipt” means –

- (g) the day on which the public authority receives the request for information, or
- (h) if later, the day on which it receives the information referred to in section 1(3);

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”