

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 4 August 2011

Public Authority: Cabinet Office
Address: Admiralty Arch
London
SW1A 2WH

Summary

The complainant requested information from the Cabinet Office about the payment of legal fees for Andy Coulson in relation to the trial of a named individual. Whilst the Cabinet Office acknowledged receipt of the request, it failed to provide the complainant with a response within the time limit set out in section 10(1) of the Freedom of Information Act. The Commissioner requires the Cabinet Office to respond to the complainant confirming or denying whether information is held. If it is the case that information is held the Cabinet Office should either disclose the information to the complainant or issue a valid refusal notice under section 17 of the Act.

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. On 20 December 2010 the complainant requested the following information from the Cabinet Office:

"Under the Freedom of Information Act, please tell me:

(a) On what date the Cabinet Office approved that Mr Andy Coulson could have the cost of his legal fees paid for by News International in relation to the trial of [named individual].

(b) Who within the Cabinet Office or Number Ten authorised the decision that Mr Andy Coulson could have the cost of his legal fees paid for by News International in relation to the trial of [named individual]. Was it a committee that made this decision? Was it Sir Gus O'Donnell? Was it the Prime Minister? Please advise me of precisely who made this decision.

(c) Please provide me with a copy of the minutes of the meeting in which it was agreed that Mr Andy Coulson could have the cost of his legal fees paid for by News International in relation to the trial of [named individual].

(d) Please provide me with all (a) written and (b) electronic submissions that were submitted to the Cabinet Office ahead of the decision being taken on whether or not the Cabinet Office should approve News International meeting the cost of Mr Andy Coulson's legal fees in connection with the trial of [named individual]. This would include all submissions from solicitors, departmental officials, ministers, Mr Andy Coulson and News International.

(e) Please provide me with all advice and guidance, both written and electronic, that has been provided to Mr Andy Coulson in relation to registering the payment of his legal fees by News International as a gift as part of the Cabinet Office's guidelines for reporting gifts and hospitality.

(f) What internal and external legal advice the Cabinet Office sought ahead of its decision to approve News International's payment of Mr Andy Coulson's legal fees in relation to the trial of [named individual].

(g) Please tell me what pre-meetings were held involving (a) ministers, (b) Cabinet Office officials and (c) Mr Andy Coulson ahead of the final decision being taken to allow News International to meet the cost of Mr Andy Coulson's legal fees in relation to the trial of [named individual].

(h) A copy of the advice (a) requested or (b) submitted from/to the Cabinet Office from the Treasury Solicitors on this matter. This may be provided either electronically or in writing and would cover any emails sent and received.

(i) Please tell me how much News International is paying towards the cost of Mr Andy Coulson's legal fees in respect of the [named individual] trial. Given that the Cabinet Office has had to give its approval to this, the information should be readily available and should be made public."

3. The complainant stated his preference to receive the information electronically and reminded the Cabinet Office of its duty under section 16 of the Act to provide advice and assistance should his request be *"unmanageable in any way."*
4. The Cabinet Office acknowledged receipt of the request on 4 January 2011.
5. To date the complainant has not received a response from the Cabinet Office.

The Investigation

Scope of the case

6. On 18 April 2011 the complainant contacted the Commissioner to complain about the Cabinet Office's continuing failure to provide him with a substantive response.

Chronology

7. The Commissioner contacted the Cabinet Office on 29 June 2011 to remind it of its obligations under the Act, asking it to provide the complainant with a response within ten working days. The Commissioner also advised the Cabinet Office that the severe delay in responding had been brought to the attention of the Commissioner's Enforcement team.
8. In the absence of any response from the Cabinet Office, either to the Commissioner or to the complainant, the Commissioner wrote to both the Cabinet Office and the complainant on 1 August 2011 to advise that the complaint would now be passed to the Commissioner's Complaints Resolution team.

Analysis

9. The full wording of the sections detailed in this Notice can be found in the Legal Annex.

Procedural Requirements

Section 10 – Time for response

10. Section 10(1) of the Act states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
11. From the information provided to the Commissioner on this case it is evident that the Cabinet Office has not responded to the complainant within the statutory time frame.
12. The Commissioner therefore finds the Cabinet Office in breach of section 10(1) of the Act as it failed to provide either the requested information or a valid refusal notice within the statutory time limit.

The Decision

13. The Commissioner's decision is that the Cabinet Office did not deal with the request for information in accordance with the Act in that it breached section 10(1) of the Act by failing to provide a response to the request within the statutory timeframe of 20 working days.

Steps Required

14. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the Act:
 - confirm or deny whether the requested information is held to comply with section 1(1)(a);
 - if information is held, either provide the information to comply with section 1(1)(b), or withhold the information by issuing a valid refusal notice under section 17(1) of the Act.
15. The public authority must take the steps required by this notice within 35 calendar days of the date of this Notice.

Failure to comply

16. 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

17. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

18. 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.

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 4th day of August 2011

Signed

**Jon Manners
Group Manager
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."

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."

Refusal of Request

Section 17(1) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (c) states that fact,
- (d) specifies the exemption in question, and
- (e) states (if that would not otherwise be apparent) why the exemption applies."