

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 20th October 2005

Name of Public Authority: The Home Office

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

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 6th January 2005 the following information was requested from the National Offender Management Service under section 1 of the Freedom of Information Act 2000 (the "Act"):

HMP Long Lartin staff notices for the period 01/01/04 to 01/01/05.

It is alleged that:

The National Offender Management Service did not provide the requested information, or an appropriate refusal notice within 20 working days. They did respond on the 17th March 2005 when they refused this request because the cost of extracting the information would exceed the fees limit detailed by the Act.

The complainant then refocused his request on 24th March 2005 and requested:

A list of operational notice numbers and headings of HMP Long Lartin staff notices for the period 01/01/04 to 01/01/05

It is alleged that :

The National Offender Management Service did not provide the requested information within 20 working days.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

The National Offender Management Service did not respond to the complainant's original request, by providing either the information or an appropriate refusal notice within the statutory time period of 20 days, and has therefore breached section 10(1) of the Act.

Section 10(1) states:

"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."

The National Offender Management Service's letter of 17th March 2005, in which they refused the original request as being over the appropriate cost limit, did not contain particulars of their own complaints procedure, or of the complainants section 50 right to take their complaint to the Information Commissioner. They therefore breached section 17 (7) (a) & (b) of the Act.

Section 17 (7) (a) & (b) state :

"A notice under subsection (1), (3) or (5) must –

- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
- (b) contain particulars of the right conferred by section 50.

Further, after the complainant refocused his request, the National Offender Management Service did not provide the requested information until 15th August 2005, which also exceeded the statutory time period of 20 days and therefore breached section 10 (1) of the Act.

Action Required

In view of the fact that National Offender Management Service responded to the complainant's refocused request on 15th August 2005 the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by the National Offender Management Service.

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	
LE1 6ZX	

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

Dated the 20th day of October 2005

Signed:

Graham Smith
Deputy Commissioner

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF