

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 2 November 2009

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

Summary

The complainant submitted a request to the Cabinet Office for information about the Department's staffing and funding for publicity and communications. A response to the request was not provided. The Commissioner's decision is that the Cabinet Office failed to comply with section 1(1) of the Act and must now do so within 35 calendar days of the date of this notice. The Commissioner found that the Cabinet Office breached section 10(1) 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 28 July 2009 the complainant requested the following information:
 - 1) The number of staff (full-time equivalent) working in marketing, external communications and press offices.
 - 2) The number of dedicated Freedom of Information officers (full-time equivalent)
 - 3) Total staffing cost of marketing, external communications and press officers.
 - 4) Total staffing cost of dedicated Freedom of Information staff.

- 5) Total spending on marketing, external communications and press officers.
 - 6) Total spending on Freedom of Information
 - 7) If the department produces a newsletter then the name of this publication and all associated costs.
3. The Cabinet Office responded to the complainant acknowledging her request on 29 July 2009.

The Investigation

Scope of the case

4. On 9 September 2009 the complainant contacted the Commissioner to complain about the Cabinet Office's failure to respond to her request.

Chronology

5. The Information Commissioners Office telephoned the Cabinet Office on 15 October 2009. The Cabinet Office accepted that they had not provided a response to the complainant's request.
6. The Commissioner notes that the Cabinet Office has not responded to the complainant's request since that date, or indicated when it expects to respond either directly to the complainant or to the Commissioner.

Analysis

Procedural Requirements

Section 1

7. Section 1(1) of the Act states 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."

The Commissioner considers that the Cabinet Office has failed to comply with section 1(1)(a) and (b) of the Act to date, as it has not provided a response to the complainant.

Section 10

8. Section 10(1) of the Act states 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.”

The Commissioner considers that the Cabinet Office has breached section 10(1) of the Act as it failed to respond to the request within twenty working days following the date of receipt.

The Decision

9. The Commissioner's decision is that the Cabinet Office did not deal with the request for information in accordance with section 1(1) of the Act as it has not informed the complainant whether information is held in response to her request nor, if held, communicated any information to the complainant.

The Cabinet Office has breached section 10(1) of the Act in failing to comply with section 1(1) within twenty working days following receipt of the request.

Steps Required

10. The Commissioner requires the Cabinet Office to respond to the complainant's request in accordance with section 1(1)(a) of the Act by informing the complainant whether it holds the information, or issuing a refusal notice explaining why it is excluded from the section 1(1)(a) duty to confirm or deny if information is held. If the exclusion from the duty to confirm or deny does not apply, and the information is held, then the Cabinet Office should respond to the complainant's request in accordance with section 1(1)(b) by either communicating the information to him or issuing a valid refusal notice. Any refusal notice issued should comply with the requirements of section 17.
11. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

12. 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

13. 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.
Website: www.informationtribunal.gov.uk

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 served.

Dated the 2nd day of November 2009

Signed

**Lisa Adshead
Senior FOI Policy 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.”

“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.”