

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 13<sup>th</sup> September 2005

**Name of Public Authority:** Crown Prosecution Service

**Address of Public Authority:** 50 Ludgate Hill  
London  
EC4M 7EX

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 7<sup>th</sup> March 2005 the following request for information was made to the Crown Prosecution Service under section 1 of the Freedom of Information Act 2000 (the "Act"):

"...information which authorises them to confirm that the Essex Safety Camera enforcement police officers have been granted exemption from compliance with the following:

- (a) The ACPO's 'Enforcement Technology Devices Operational Guidelines'?
- (b) The ACPO Code of Practice for Operational Use of Road Policing Enforcement Technology'?
- (c) The Manufacturers Operating Instructions for the Gatsometer and other speed camera devices?

And if they are in fact exempt from compliance with the above, could you please disclose what, if any rules, regulations, laws or other constraints they are required to comply with in the operation of their duties?"

It is alleged that the Crown Prosecution Service did not respond to this request.

#### **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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 Crown Prosecution Service have stated that they did not comply with the complainant's request for information as they did not consider this request to be valid for the purposes of section 1 of the Act. The Commissioner considers that this request was valid and his decision is therefore that the CPS is in breach of Part I of the Act in that it has failed to comply with section 1(1) of the Act.

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.”

### **Action Required**

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that:

The Crown Prosecution Service shall, within 30 days of the date of this Decision Notice, either:

- (a) comply with section 1(1) of the Act by informing the complainant whether it holds information of the description specified by him in the request and, if it does, provide that information to him, or
- (b) provide the complainant with a refusal notice in accordance with section 17 of the Act.

### **Failure to comply**

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

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: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a> |
| 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 13<sup>th</sup> day of September 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF