



FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 30 March 2006

Name of Public Authority: Architects Registration Board

Address of Public Authority: 8 Weymouth Street
London
W1W 5BU

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 12 April 2005 the following information was requested from the Architects Registration Board (the "ARB") under section 1 of the Freedom of Information Act 2000 (the "Act"):

A copy of the letter detailing the Registrar's decision in respect of a complaint made, by the complainant, about the recipient architect.

It is alleged that:

1. The ARB did not respond to the complainant's request within 20 working days.
2. The ARB should not have denied access to the information under section 41 of the Act.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 in this case is as follows:

1. The complainant made the request by letter dated 12 April 2005. The ARB did not respond substantively to the request until 12 May 2005 when it issued a Refusal Notice. The ARB has therefore not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

Section 10(1) of the Act states:

"...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."

2. The Refusal Notice denied the request on the grounds that section 41 of the Act might be breached if the information were released without the consent of the recipient as the communication had been marked "private and confidential".

Section 41 of the Act states:

"Information is exempt information if-

(a) it was obtained by the public authority from any other person (including another public authority), and..."

Section 41 is an exemption under Part II of the Act and as such may apply to certain information under specified circumstances, thereby exempting the information from disclosure. In citing an exemption the ARB should have stated that the information was exempt by virtue of the provision, and not that the provision might be breached by disclosure.

The exemption under section 41 only applies to information that is held by a public authority by virtue of the fact that it was obtained from another person or public authority, and does not apply to information held by the public authority of its own accord. The request was for a copy of a letter, which was created by the public authority and contained no information provided by a third party. In relying on section 41, the ARB incorrectly applied the exemption as the information was not obtained by them from another party. Therefore, the ARB should not have denied the complainant access to the information under section 41.

The Commissioner acknowledges that on 4 October 2005 the ARB supplied the complainant with the information requested.

Action Required

In view of these matters, the Information Commissioner hereby gives notice that in exercise of his powers, under section 50 of the Act, he does not require that any remedial steps be taken by the ARB.

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 30th day of March 2006

Signed:

Phil Boyd
Assistant Commissioner

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF