

Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 21 March 2006

Public Authority: The Department for International Development

**Address: 1 Palace Street
London
SW1E 5HE**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has not dealt with the complainant's request in accordance with Part I of the Act in that it has failed to comply with its obligations under section 16.

1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

- 2.1 The Complainant has advised that on 7 January 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act.
- 2.2 “Copies of minutes and any notes, including handwritten notes, taken at any meetings held between officers of the Department, and of ministers, with CAFOD (Catholic Agency for Overseas Development) since May 1997. Please include such meetings where CAFOD was the only non-governmental agency at the meeting concerned and also those meetings with more than one organisation of which CAFOD was one.”
- 2.3 The Department for International Development (“DFID”) responded on the 14th January by claiming that they were unable to comply with the request since the cost of doing so would exceed the appropriate limit. DFID did however suggest that the complainant refine his request so that the cost of complying with the request could be brought under the appropriate limit. DFID suggested refining the request for minutes and notes of meetings to a specific area and suggested the area of “Health and Education”.
- 2.4 The complainant agreed to refine his request to copies of minutes and any notes of meetings between DFID and CAFOD regarding the area of “Health and Education”. The complainant also stated that he was particularly interested in “any matters to do with such things as Women’s Health; reproductive rights; abortion; family planning; condoms; contraception and so on.” The complainant stated that he did “not want any of these to be omitted”.

3. Relevant Statutory Obligations under the Act

Section 16(1) provides that –

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons would propose to make, or have made, requests for information to it”.]

4. Review of the case

- 4.1 The Commissioner requested that DFID explain how it estimated that the Complainant’s initial request would exceed the appropriate limit and how it conducted its search for information in response to the complainant’s refined request. In the course of the investigation it emerged that when searching for the information in response to the complainant’s refined request, DFID confined their search to

information related to “Women’s Health; reproductive rights; abortion; family planning; condoms; contraception and so on.” They failed to search for information related to the wider area of “Health and Education” an area DFID had themselves suggested when advising the complainant to refine his request. However DFID have informed the Commissioner that to comply with the complainant’s refined request for information related to the area of “Health and Education” would exceed the appropriate limit. It is therefore alleged that DFID are in breach of section 16 of the Act by failing to provide the complainant with advice and assistance.

5. The Commissioner’s Decision

- 5.1 The Commissioner’s decision in this matter is that the Public Authority has not dealt with the Complainant’s request in accordance with the following requirements of Part I of the Act:

Section 16 – in that it failed in its duty to provide the complainant with advice and assistance.

It may appear that that DFID offered the complainant advice and assistance in their letter of 14 January 2005 by suggesting that the complainant refine his request. However, given that when the complainant refined his request DFID subsequently stated that to comply with this refined request would also exceed the appropriate limit, DFID’s suggestion that the complainant refine his request can not be seen to be an offer of advice and assistance. Consequently DFID are in breach of section 16 of the Act.

6. Action Required

- 6.1 In view of these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the Department for International Development.

7. Right of Appeal

- 7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Reference: FS50082257

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

7.2 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 21st day of March 2006

Signed

**Phil Boyd
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**