

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 22 January 2007

**Public Authority:** Cabinet Office  
**Address:** Admiralty Arch  
North Entrance  
The Mall, London  
SW1A 2WH

### Summary Decision

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The complainant drew the conclusion from four specific documents released to the Hutton Inquiry that a further draft to the dossier "Iraq's Weapons of Mass Destruction – The assessment of the British Government" was produced on the afternoon or evening of 17 September 2002, which is currently not in the public domain. He therefore requested the public authority to confirm whether it holds, or has held, such information and if so for a copy to be released. The public authority responded to this request for information stating that it does not hold the information specified in the complainant's request. Having considered the representations of both the complainant and the public authority the Commissioner accepts that no information falling within the scope of the request is held by the public authority. The Commissioner is therefore satisfied that the public authority dealt with the complainant's request for information in accordance with Section 1 of the Act.

### The Commissioner's Role

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1. The Commissioner's role 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

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2. The complainant requested the following information on 9 January 2006 from the public authority in accordance with section 1 of the Act. (The full text of this section of the Act is available in the Legal Annex attached to the end of this Notice):

"I would like to make a request for information under the Freedom of Information Act. The request concerns the draft of the September 2002 dossier Iraq's Weapons of Mass Destruction that I believe was made available to No 10 staff on the late afternoon or evening of 17 September 2002, i.e. a draft between the 16 and 19 September drafts that are in the public domain.

- Was a draft of the dossier made available to No 10 staff late on 17 September 2002 or early 18 September?
  - Please provide copies of documents that show that this happened.
  - Please provide a copy of any such draft of the dossier".
3. On 3 February 2006 the public authority advised the complainant that his request for information had been considered and it was unable to supply the information requested. The public authority confirmed following a search of its files that it was unable to identify any information relevant to the complainant's request.
  4. The complainant requested an internal review on 9 February 2006. He stated that the public authority's response did not "confirm or deny" whether it held the information requested in accordance with the requirements of section 1 of the Act. The public authority reaffirmed on 17 March 2006 that it does not hold the information specified in the complainant's request.
  5. The complainant wrote to the Information Commissioner's Office on 31 March 2006 asking for a decision as to whether his request for information to the public authority had been dealt with in accordance with the requirements of Part 1 of the Act.

## The Investigation

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6. The Commissioner contacted the complainant on 6 June 2006 to clarify his complaint and to seek a further explanation as to why he disputed the veracity of the public authority's response.
7. The complainant responded on 7 June 2006 and advised that, in his view, four documents released to the Hutton Inquiry<sup>1</sup> indicated that a further draft of the dossier existed and was circulated within the public authority on the afternoon or evening of 17 September 2002. The documents relate to three emails and a memorandum exchanged during 17 and 18 September 2002. The four documents relied upon by the complainant, which had formed part of the evidence considered by the Hutton enquiry, were:
  - Email from Felicity Hatfield (on behalf of Alastair Campbell) to Jonathan Powell at 4.32pm on 17 September 2002, [http://www.the-hutton-inquiry.org.uk/content/cab/cab\\_11\\_0060.pdf](http://www.the-hutton-inquiry.org.uk/content/cab/cab_11_0060.pdf)

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<sup>1</sup> The report of the inquiry into the circumstances surrounding the death of Dr David Kelly CMG by Lord Hutton.

- Email from Jonathan Powell to John Scarlett at 7.41pm on 17 September 2002  
[http://www.the-hutton-inquiry.org.uk/content/cab/cab\\_11\\_0069.pdf](http://www.the-hutton-inquiry.org.uk/content/cab/cab_11_0069.pdf)
  - Email from Felicity Hatfield (on behalf of Alastair Campbell) to John Scarlett at 2.31pm on 18 September 2002  
[http://www.the-hutton-inquiry.org.uk/content/cab/cab\\_11\\_0088.pdf](http://www.the-hutton-inquiry.org.uk/content/cab/cab_11_0088.pdf)
  - Memorandum from John Scarlett to Alastair Campbell on 18 September 2002  
[http://www.the-hutton-inquiry.org.uk/content/cab/cab\\_11\\_0070to0071.pdf](http://www.the-hutton-inquiry.org.uk/content/cab/cab_11_0070to0071.pdf)
8. The complainant was also dissatisfied with the extent of the public authority's search and commented that its response to his request for the information suggested that it was unsure whether or not it held the information. He felt that if such a draft existed it was unlikely that the document or any references to it had been destroyed.
  9. The Commissioner wrote to the public authority to relay the complainant's concerns that the four documents referred to in his initial request for information demonstrated that the information requested was likely to exist or to have existed at some point. The Commissioner asked the public authority a series of preliminary questions to establish whether the information specified in the complainant's request is, or has been, held.
  10. The public authority responded on 6 July 2006 and advised that all efforts were made to identify the information requested when the complainant's initial request was processed and during the course of the initial review. It stated that this involved a search of the records held at No 10 Downing Street, the Cabinet Office, the Foreign and Commonwealth Office and the information held by the Treasury Solicitor's office on the Cabinet Office's behalf as a result of the Hutton Inquiry. It explained that these searches did not identify the information requested and therefore it was satisfied that the information is not and has not been held.
  11. The public authority advised that the government made a substantial amount of information available to the Hutton Inquiry. As part of this exercise a search was made of all electronic records including deleted emails in order to identify all potentially relevant material. It confirmed that all recovered material was reviewed in the context of the complainant's request and no information of the description requested was identified. It stated that the drafts of "Iraq's Weapons of Mass Destruction – The assessment of the British Government" are held and were made available to the Hutton Inquiry. The information is available on the website of the Hutton Inquiry ([www.the-hutton-inquiry.org.uk](http://www.the-hutton-inquiry.org.uk)) and the drafts of the dossier can be found in the appendix section of Lord Hutton's report.
  12. The Commissioner contacted the public authority on 17 August 2006 and asked it to provide further explanations specifically addressing the contents of the documents referred to by the complainant in support of his claim. The Commissioner asked the public authority to engage with each document when constructing its response with the view to demonstrating whether it holds, or has held, the information requested.

13. In its response dated 6 December 2006 the public authority confirmed that it had reviewed the documents referred to by the complainant in more detail. In respect of the first document, it stated that the email on 17 September 2002 from Felicity Hatfield (on behalf of Alastair Campbell) to John Scarlett indicated only a possibility that a further draft of the dossier would be circulated later that day. The second document relates to an email sent on the afternoon of 17 September 2002 from Jonathan Powell to John Scarlett. The public authority stated that this email referred to a number of comments on a draft of the dossier. However, it advised that the contents of this email gave no indication as to the date of the version being discussed.
14. The public authority explained that the third document is an email from Felicity Hatfield (on behalf of Alastair Campbell) to John Scarlett on 18 September 2002. It advised that the email refers to a number of comments on a dossier and from the email quoted, "page numbers refer to the one you gave me yesterday am". The public authority disagreed with the complainant that this email suggested that a further draft of the dossier was circulated on the afternoon or evening of 17 September 2002. To the contrary, it stated that the contents of the email confirmed that Alastair Campbell was commenting on a draft No 10 Downing Street received on the morning on 17 September 2002 and prior to the email he sent to John Scarlett at 4.32pm that afternoon (the first document).
15. The fourth document is a memorandum from John Scarlett to Alastair Campbell on 18 September 2002 thanking him for his minute of 17 September 2002. The public authority explained that, in his minute, Alastair Campbell relayed a number of drafting comments from the Prime Minister, who had raised a number of points on the draft which John Scarlett had given to him on the morning of 17 September 2002. The public authority stated, again, that this memorandum indicated that Alastair Campbell was passing on the Prime Minister's comments on the draft provided by John Scarlett on the morning of 17 September 2002 and does not suggest that a further draft to those already in the public domain was circulated on the afternoon or evening of 17 September 2002. It advised that the document of 18 September 2002 was John Scarlett's response to Alastair Campbell's minute, in which he discussed these comments and whether or not they would be incorporated into the next draft, which was produced on 19 September 2002.
16. The public authority concluded that, in its view, the documents referred to by the complainant do not provide any evidence to show that a complete draft dossier was produced on the late afternoon or evening of 17 September 2002. It confirmed that there are four complete drafts of the "Iraq's Weapons of Mass Destruction – The assessment of the British Government" dated 10/11 September, 16 September, 19 September and 20 September 2002 and that this was confirmed by Lord Hutton's report. The public authority's position therefore remained that it does not hold this information and that such information does not exist.

## The Decision

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17. The Commissioner is satisfied that the requested information is not held by the public authority and that the complainant's request has been dealt with in accordance with Part 1 of the Act. The public authority considered the evidence provided by the complainant and undertook a number of searches for the information, none of which indicated that the information is, or has been, held.

## Steps Required

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18. The Commissioner requires no steps to be taken.

## Right of Appeal

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19. 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@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

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 22 day of January 2007**

**Signed .....**

**Richard Thomas  
Information Commissioner**

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

## **Legal Annex**

### **Freedom of Information Act (2000)**

#### **Section 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.”