

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 24 May 2010

Public Authority: Children and Family Court Advisory and Support Service
Address: 6th Floor
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Summary

The complainant requested the engagement diary of the Chief Executive of the public authority covering a specified period. The public authority failed to respond to this request and the Commissioner finds that, in so doing, the public authority did not comply with the requirement of section 10(1) of the Act that an information request must be responded to within 20 working days of receipt. The public authority is now required to respond to the request.

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. The complainant requested the following information on 14 November 2008:

"...[Anthony Douglas' (Cafcass Chief Executive)] diary of engagements from the period of 14 August until the 14 Nov [2008]."

3. Whilst the public authority responded by letter dated 18 December 2008 and addressed other issues raised in the complainant's correspondence of 14 November, the information request above was not addressed. Neither did the public authority respond to this request in any other correspondence.

The Investigation

Scope of the case

4. The complainant contacted the Commissioner in connection with a number of subject access requests made to the public authority and others under section 7 of the Data Protection Act 1998, as well as in connection with the above information request. It was clarified with the complainant that this case would focus solely on the information request above and that, given that it appeared that the public authority had not responded to that request, the investigation would focus, at least initially, on establishing if a response had been provided.

Chronology

5. On 1 March 2010 the Commissioner's office contacted the complainant and asked that he respond confirming whether he had received a response to the request above and, if so, to provide a copy of that response to the Commissioner's office. The complainant responded on the same date and confirmed that he had not received a response to this request.
6. On the same date the public authority was asked to confirm if it had provided a response to this request and, if so, to provide a copy of this response to the Commissioner's office. The public authority responded on 2 March 2010 and referred to its response to the complainant of 18 December 2008. As noted above at paragraph 3, this response did not address the information request quoted above.

Analysis

Substantive Procedural Matters

Sections 1 and 10

7. Section 1(1) of the Act requires that a public authority should respond to a request for information by either confirming whether or not the information is held and disclosing any information that is held; or citing exemptions from the requirement to confirm or deny whether the information requested is held, or from the requirement to disclose information. Section 10(1) requires that such a response must be provided within 20 working days of receipt of the request. In no circumstance does the Act provide that a public authority is not required to respond to a request for information.
8. The complainant contends that he has not received a response to his information request. When asked to clarify whether it had responded to this request, the public authority stated that it had done so through its letter dated 18 December 2008. However, this letter makes no reference to the information request quoted above.
9. On the basis that the correspondence of 18 December 2008 does not constitute a response to the request in question, and on the basis that the Commissioner has been provided with no evidence suggesting that the public authority responded to this request at any other stage, the Commissioner concludes that the public authority failed to respond to the complainant's information request of 14 December 2008. In so doing the public authority failed to comply with the requirement of section 10(1) of the Act.

The Decision

10. The Commissioner's decision is that, in failing to respond to the complainant's request, the public authority did not comply with the requirement of section 10(1) of the Act.

Steps Required

11. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

- Provide to the complainant a response to the request that is valid for the purposes of the Act. This response should include confirmation or denial of whether the information requested is held and should disclose this information. Alternatively, if the public authority believes that any exemptions from either the duty to confirm or deny or from the duty to disclose are engaged, the relevant sections of the Act should be cited and full explanation given of the reasoning for the citing of these exemptions.
12. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

13. 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

14. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

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 sent.

Dated the 24th day of May 2010

Signed

**Gerrard Tracey
Principal Policy Adviser**

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

Legal Annex

Section 1

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."

Section 10

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."