

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 17 February 2011

Public Authority: UK Border Agency (an executive agency of the Home Office)
Address: 11th Floor
Lunar House
40 Wellesley Road
Croydon
CR9 2BY

Summary

The complainant asked the UK Border Agency (the “public authority”) to provide information relating to suspicious marriages and partnerships. The public authority provided some information but refused to disclose the remainder under sections 40(2) (personal information), 30(1) (investigations and proceedings) and 31(1) (law enforcement) of the Freedom of Information Act 2000 (the “Act”). During the Commissioner’s investigation it also sought to reply on section 12 (the appropriate limit) in respect of part of the request, latterly amending this to cover all outstanding parts of the request.

The Commissioner’s decision is that section 12 does apply to all the outstanding parts of the request. The complaint is therefore not upheld.

The public authority’s handling of the request also resulted in breaches of certain procedural requirements of the Act as identified in this Notice.

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.

Background

2. Section 24 of the Immigration and Asylum Act 1999 provides for the reporting of 'suspicious marriages'. The full text of the legislation can be found online via this link:
http://www.opsi.gov.uk/acts/acts1999/ukpga_19990033_en_1
3. This defines a 'sham marriage' as "*... a marriage ... entered into ... for the purpose of avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules*".
4. Statutory Instrument 2000 No. 3164¹ and Statutory Instrument 2005 No. 3174² also provide further background information about the process.
5. The public authority has also produced a publication entitled "Important Information Regarding Certificate of Approval for Marriage or Civil Partnership Applications", which can be found online at:
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/visitingtheuk/coaguidance.pdf>
6. This publication includes the following statement:

"4. GIVING NOTICE TO MARRY OR REGISTER A CIVIL PARTNERSHIP AT A DESIGNATED REGISTER OFFICE

4.1 If you are a person subject to immigration control, you and the person whom you plan to marry, or with whom you plan to register your civil partnership, will need to give, at a designated register office, notice to marry or register your civil partnership. All the registration offices in Scotland and Northern Ireland are designated registration offices and 76 register offices in England and Wales have been selected as designated register offices. A list of these 76 offices is available on the General Register Office website and the UK Border Agency website".

There are a further 12 register offices in Scotland and 26 in Northern Ireland.

¹ <http://www.opsi.gov.uk/si/si2000/20003164.htm>

² <http://www.opsi.gov.uk/si/si2005/20053174.htm>

The request

7. The Commissioner notes that the UK Borders Agency is not a public authority itself, but is actually an executive agency of the Home Office which is responsible for it; therefore, the public authority in this case is actually the Home Office and not the UK Borders Agency. However, for the sake of clarity, this Decision Notice refers to the UK Borders Agency as if it were the public authority.
8. On 27 October 2009 the complainant made the following information request:

"... I am only interested in material which relates to the period October 1 2008 to the present day.

1..Since October 1 2008 have any individual registrars and or registry offices conveyed concerns to the Home Office about marriages they believe to be suspicious and or suspect and or a sham. It is likely that those concerns were contained in section 24 reports issued under the Reporting of Suspicious Marriages and the Registration of Marriages (Miscellaneous Amendments) Regulations (SI2000/3164). The marriages may or may not have been solemnized.

2...Since October 1 2008 can the Home Office state how many of these section 24 reports it has received? Can it state which registry office(s) has sent the report(s). How many different section 24 reports has each registry office issued during the aforementioned period? Can the home Office please state what action if any it took in the light of each report? Can it also state the date the report was received? Please feel free to redact the names of any members of the public from this part of your answer?

3...Can the Home Office please provide all copies of section 24 reports issued during the aforementioned period. Please feel free to redact the names and addresses of any member of the public, any registrar and or registry office staff and or any Home Office employees. But please do not redact the locality of the registry office which provided the report?

4....Could the Home Office provide similar information and documentation which relates to concerns conveyed under section 24 of the Reporting of Suspicious Civil Partnership Regulations

2005 (SI2005/3174). Please feel free to employ the same redactions as identified above".

9. On 14 January 2010 the public authority provided its response and apologised for the delay. It provided a response in respect of the first part of the request and explained that the information for both suspicious marriages and suspicious civil partnerships were recorded together. The remaining information was withheld under the exemptions at section 40(2) (personal information), 30(1)(a) (investigations) and 31(1)(b) (law enforcement).
10. On 14 January 2010 the complainant sought an internal review.
11. On 31 March 2010 the public authority sent its internal review. It maintained its position regarding the withholding of the remaining information.
12. The public authority confirmed that it had received 498 reports between 1 October 2008 and 12 November 2009. The complainant made no complaint regarding this response postdating the date of his request.

The investigation

Scope of the case

13. On 6 April 2010 the complainant contacted the Commissioner to complain about the way his requests for information had been handled.
14. On commencing his investigation the Commissioner wrote to the complainant to ascertain the scope of his complaint. He advised that he would consider any timeliness issues. The Commissioner also advised that, following the responses already made by the public authority, he believed the outstanding elements of his requests were as follows.
 - i) Which registry office sent the report(s)?
 - ii) How many reports has each registry office sent?
 - iii) What action was taken, if any?
 - iv) What date was the report received?
 - v) Provide anonymised copies of all reports.
15. This scope was accepted by the complainant.

16. During the Commissioner's investigation, the public authority changed its justification for the refusal of part (iii) of the request (as listed in paragraph 14) to being that the cost of compliance would exceed the appropriate cost limit, so section 12(1) applied. The Commissioner established that the complainant still required a Decision Notice to be issued.
17. Following further correspondence, the public authority advised the Commissioner that it wished to aggregate the cost of compliance with all the outstanding parts of the request. The Commissioner advised the complainant accordingly.
18. The Commissioner has chosen to exercise his discretion in this case to accept the late citing of section 12(1), and 12(4), by the public authority. However, section 17(5) of the Act requires that the complainant should be informed of a claim that section 12(1) applies within 20 working days of receipt of a request. The public authority failed to comply with this requirement in this case, as recorded below in *Procedural requirements*, and the public authority should seek to avoid similar breaches of the Act in future.
19. As to the reasoning for the decision to allow the late citing of section 12(1), when drafting the Act, Parliament intended that a public authority should not be obliged to comply with a request where the cost of doing so would exceed an appropriate cost limit (subsequently set at £600 for central government and £450 for all other public authorities). The estimate should be based on factors as they applied at the time of the request even if the public authority is applying section 12(1) late, as in this case.
20. The Commissioner has taken the general approach that to refuse to accept the late citing of section 12(1) would contradict the intention of Parliament that a public authority is not obliged to comply with a request if to do so would exceed the appropriate cost limit. The Commissioner has, therefore, considered section 12(1) in this Notice.
21. The public authority also sought to rely on section 38 of the Act during the investigation. However, as the Commissioner has concluded below that section 12(1) and 12(4)(a) could be applied to this request he has not had to consider whether or not to permit this late introduction.

Chronology

22. On 9 August 2010 the Commissioner commenced his enquiries with the public authority. He clarified that the withheld information he was considering was as scoped above.

23. On 15 September 2010 the public authority provided its response. It confirmed to the Commissioner that it wished to rely on the exemptions at sections 40(2), 30(1)(a), 31(1)(b) and 31(1)(e) and provided further arguments for doing so. It confirmed that section 40(2) was being cited in respect of the parties' names, dates of birth, addresses, etc, as well as the location and date of the marriage / partnership; section 30(1) was applied in respect of the named register offices and numbers of reports; and 31(1) was applied in respect of the reasons for the initial suspicions and any subsequent action taken.
24. On 21 September 2010 the Commissioner wrote to the complainant. He explained to him that, even were the reports to be anonymised, by knowing the dates and location if the marriage / partnership it would be possible to trace the parties by looking at the appropriate marriage register.
25. The complainant responded saying that he did not see why a marriage register would contain details of a marriage which was proven to be, or suspected of being, 'sham', stating: "*by its very nature its [sic] not a legally recorded marriage*". He still required a Decision Notice.
26. On 22 September 2010 the Commissioner raised further queries. After chasing a response on several occasions this was sent on 15 October 2010. The public authority changed its position, stating that it now wished to apply section 31(1) to the name, location and number of reports. It also cited section 38(1) in respect of the names of register offices, as identifying these might identify their registrars, thereby putting them at risk, particularly where the offices are only small.
27. Following a discussion, the Commissioner wrote to the public authority again on 18 October 2010 asking further questions about the processes involved. Having chased a response on a number of occasions the public authority responded on 10 November 2010. At this point it introduced section 12 in respect of part (iii) of the request (as identified in the *Scope* section above) as it found that to respond to this would exceed the appropriate limit.
28. The Commissioner advised the complainant accordingly on 16 November 2010 and invited him to narrow or withdraw his complaint. On 27 November the complainant advised that he still required a decision to be made.
29. On 08 December 2010, the public authority advised the Commissioner that it wished to aggregate the costs of compliance with all remaining parts of the request. It stated that: "*the questions being on the same*

theme and topic should have been aggregated at the initial request stage". Further:

"As submitted earlier the costs involved in complying with the request for the follow up action taken alone would exceed the cost limit. The costs involved with determining the names, dates and locations of registry offices, follow up action and collating, converting and releasing the reports to for [sic] the number of reports requested, would significantly exceed the cost limit for complying with a request for a central government department".

30. The Commissioner advised the complainant accordingly.

Analysis

Substantive procedural matters

Section 12

31. Section 12(1) provides that -

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit".

32. Section 12(4) provides that -

"The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –
(a) by one person, or
(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,
the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them".

33. For clarity, there is no public interest element to consider when looking at section 12, which serves merely as a cost threshold.

34. Section 12 provides that a public authority is not obliged to comply with an information request if the cost of doing so would exceed the appropriate limit. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "fees regulations") provide that the limit for central government public authorities is £600.

The fees regulations also provide that the cost must be calculated at the rate of £25 per hour, providing an effective time limit of 24 hours, and that the tasks that can be taken into account as part of a cost estimate are as follows:

- determining whether the information requested is held.
 - locating the information.
 - retrieving the information.
 - extracting the information.
35. The task for the Commissioner in considering whether section 12(1) has been applied correctly is to reach a decision as to whether the cost estimate made by the public authority is reasonable. The analysis below is based upon the description provided by the public authority in support of its cost estimate.
36. In this case, the public authority initially applied section 12 to part (iii) of the request only, as stated above. However, having commenced his investigation, the Commissioner invited the public authority to consider whether it should in fact have aggregated all parts of the request for the purposes of section 12 since they all related to the same overarching theme, i.e. reports of suspicious marriages or civil partnerships. The public authority agreed that this was the position it should have taken and therefore aggregated the costs. As mentioned above, the Commissioner has used his discretion and allowed it to do so, even though it is at a very late stage.
37. Having analysed the correspondence, the Commissioner believes that there are two subsections of section 12 which are particularly relevant to this case.
- Section 12(4): allows a public authority to aggregate the cost of compliance with multiple requests in certain circumstances.
 - Section 12(1): removes the public authority's obligation to provide requested information where the cost of identifying, locating, retrieving and extracting the requested information would exceed the appropriate limit.
38. Analysis of the application of section 12 in relation to this case has therefore addressed the following issues.
- Has the complainant made one request with multiple parts or multiple requests in one letter?
 - If the latter, can any of the requests be aggregated?
 - Would compliance with the first part of the request exceed the appropriate limit?

Has the complainant made one request with multiple parts or multiple requests in one letter?

39. Section 12(4) can be engaged where one person makes two or more requests. It allows for the aggregation of these requests for the purpose of calculating costs in circumstances which are set out in Regulation 5 of the Fees Regulations³. This Regulation provides that multiple requests can be aggregated where two or more requests relate, to any extent, to the same or similar information.
40. Given the effect of section 12(4), the Commissioner first considered whether the complainant's letter of 27 October 2009 constituted a single request with multiple elements or multiple requests. The Information Tribunal considered a similar issue in *Fitzsimmons v ICO & Department for Culture Media and Sport* [EA/2007/0124]⁴.
41. Taking the Tribunal's decision in *Fitzsimmons* into consideration, the Commissioner would characterise the complainant's letter of 27 October 2009 as containing more than one request within a single item of correspondence.

Can any or all of the requests be aggregated?

42. Having established that the complainant has made multiple requests in a single letter, the Commissioner went on to consider whether those requests could be aggregated for the purpose of calculating the cost of compliance.
43. The Commissioner here notes that the requests all relate to reports of either suspicious marriages or suspicious civil partnerships. The public authority has confirmed that the same report is completed in either case so the same forms would need to be considered in order to answer both elements. For all intents and purposes, it holds all the information together as it deals with both types of report in the same manner.
44. The Commissioner could therefore either consider the aggregation of costs in respect of suspicious marriages only, and make a separate determination in respect of suspicious civil partnerships; , or he could aggregate both strands of the request, i.e. both marriages and civil partnerships.

³ <http://www.opsi.gov.uk/SI/si2004/20043244.htm>

⁴ <http://www.informationtribunal.gov.uk/DBFiles/Decision/i242/Fitzsimmons.pdf>

45. Having considered the text of all parts of the request, the Commissioner has concluded that they can all be aggregated for the purpose of calculating the cost of compliance because they follow an overarching theme about the reporting of suspicious marriages or civil partnerships. The reports are all retained together by the public authority and it has not tried to 'separate' them in order to respond to any part of the request. The Commissioner here notes that the public authority did advise the complainant that this was how it processed the reports and, when it provided the complainant with the totals, he did not seek to have this separated into the two areas.
46. The Commissioner therefore finds that it is reasonable for the reports to all be considered together. Having reached this conclusion, the Commissioner went on to consider the application of section 12(1). This removes the public authority's obligation to provide requested information where the cost of identifying, locating, retrieving and extracting the requested information exceeds the appropriate limit.

Would compliance exceed the appropriate limit?

47. The Commissioner here notes that the public authority has provided the numbers of reports it has received. It was able to do so as it records some details from the reports on one of its databases. He has been further advised by the public authority that it also electronically records the register office which originated the report and the date on which the report was submitted. The Commissioner therefore concludes that it would be able to respond to parts (i) and (ii) of the request with relative ease. However, it would only be able to respond to the remaining elements of the request by examination of the actual reports as this information is not recorded anywhere else.
48. Therefore, in order to comply with all parts of the requests the public authority would need to locate and retrieve the forms and then extract the requested information from them. The public authority has provided the Commissioner with the following explanation regarding its citing of costs in respect of part (iii) of the request:

"It would take approximately 25 to 30 minutes to access the secure storage, identify the relevant archive box and retrieve the individual reports. This process would have to be followed at both sites that the information is held in so would total one hour in total.

Once retrieved, each paper report would then need to be reviewed to ascertain which party or parties may need to be considered, and their details noted down. Relevant parties

include all non-British nationals subject to immigration control, but exclude British nationals themselves.

This process would take approximately 1 to 2 minutes, depending on the complexity and clarity of the report e.g. unclear handwriting. The next step would be to conduct a search to identify any further details about the named parties using three different databases (the casework database, a specialist database, and UK Visas database). The length of time it would take to conduct these searches is:

- *casework database - 5 to 10 minutes per person, depending on their immigration history and complexity of the case*
- *The specialist database - a minimum of 5 minutes per person, and considerably longer if the name is one commonly found on this database*
- *UK Visas database - a minimum of 5 minutes per person.*

Thereafter, relevant paper files would need to be examined. It would take 1 to 2 minutes to request a file and at least 5 minutes to view it. Where a parties immigration history includes multiple immigration applications, or an "at entry application" to the United Kingdom (an application made at a port), additional sub files would also need to be viewed, adding considerable time to this process.

Minimum time required to complete request

In summary the absolute minimum time to determine follow up action per case is as follows:

- *1 minute to view the form and note down the details;*
- *5 minutes to research the casework databases;*
- *5 minutes to research the specialist database;*
- *5 minutes to research UK Visas database;*
- *1 minute to request relevant paper files;*
- *5 minutes to research relevant paper files.*

The minimum time to determine cases is only applicable where:

- *Only one party in the marriage is, or has ever been subject to immigration control;*
- *The party subject to immigration control has a maximum of one previous application for immigration status;*
- *The surname of the party subject to immigration control is not a common one.*

The minimum time to locate the relevant information is 22 minutes per case. As there are 496 reports within the scope of the request, the minimum time required to collate the information is 181 hours".

Conclusion

49. It is the Commissioner's view that the public authority has provided adequate explanations to support its position that it would exceed the appropriate limit to locate and retrieve the requested information. As the Commissioner finds that the costs can be aggregated, he therefore concludes that to apply with the request would exceed the appropriate limit.
50. The Commissioner also notes that the public authority has previously applied various exemptions to withhold information contained within the reports,. However, as he has decided that all remaining parts of the original request can be aggregated he will not consider whether or not the other exemptions apply.

Section 16

51. Section 16(1) provides that public authorities are under a duty to give advice and assistance to individuals making information requests. Where section 12(1) is cited, the Commissioner considers it essential that advice is provided to the applicant as to how their request could be refined so that it may be possible to supply some information without exceeding the cost limit. The Commissioner also considers it good practice for the public authority to inform the applicant of their total cost estimate and to provide a breakdown of how this estimate was formed. As section 12(1) was not cited prior to the Commissioner's investigation, clearly the public authority did not provide to the complainant relevant advice and assistance in this case and, therefore, breached section 16(1).
52. Under the section '*Steps required*' later in this Notice, the public authority is required to provide to the complainant appropriate advice and assistance as to how his request could be refined in order that it may be possible to supply some information without exceeding the cost limit. The Commissioner has noted that the excessive cost of this request is in large part due to the volume of information covered by the request, i.e. the reports for approximately a year. Given this, it may be appropriate for the public authority to consider whether it should advise the complainant to refine his request to cover only a two- or three-month period so that it may be possible to provide information without exceeding the cost limit. Alternatively, it may

suggest a limit of, for example, only parts (i) and (ii) of his request (if this information could be provided within the threshold).

53. The Commissioner also notes that the public authority had initially applied various exemptions to the requested information. Therefore, he understands that it is likely that any refined request will again incur the claim of various exemptions. However, as he is already satisfied that compliance with the request would exceed the appropriate limit he has not found it necessary to consider the exemptions cited at this stage. He would, however, draw attention to some of his findings within 'Other matters' at the end of this Notice. These findings were ascertained in the early stages of his investigation, prior to the citing of the appropriate limit, but they may be of assistance to the complainant when considering any future request.

Procedural requirements

Section 1(1) and 10(1)

54. 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".*

55. Section 10(1) provides that-

"... 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".

56. The original information request in this case was made on 27 October 2009. The public authority failed to comply with section 1(1) until 14 January 2010, therefore taking 54 working days. In failing to provide a response compliant with section 1(1), within 20 working days of receipt of the request, the public authority breached section 10(1).

Section 17

57. Section 17(5) provides that –

"A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies

must, within the time for complying with section 1(1), give the applicant a notice stating that fact."

58. In failing to cite section 12(1) within 20 working days of receipt of the request, the public authority did not comply with the requirement of section 17(5).

The Decision

59. The Commissioner's decision is that the public authority dealt with the requests for information in accordance with the Act in that section 12(1) provided that it was not obliged to comply with the request.
60. However, the Commissioner has also found that the public authority failed to comply with the requirements of sections 10(1), 16(1) and 17(5) in its handling of the requests

Steps required

61. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- in line with its duties under section 16 of the Act, the public authority should write to the complainant and suggest any ways in which it believes the complainant can refine his request so that it does not exceed the appropriate limit.
62. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

63. 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.

Other matters

64. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters.

Internal review

65. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, it took 54 working days for an internal review to be completed, despite the publication of his guidance on the matter.

Citing of section 40(2) (personal information)

66. The complainant has already indicated that he is happy for the names and addresses of members of the public and any registrar, registry staff or Home Office employees to be redacted. The Commissioner is satisfied that the removal of names can be readily achieved by redaction. However, the remaining issue is whether or not releasing the date of the report along with a named register office would allow for the identification of any parties using other means.

67. The public authority has explained that:

"The reports are submitted [by the registrar on] the same day as the suspicion arises, where ever it is possible to do so. It is therefore highly likely that the report will be submitted on the same day as the intention to marry is completed with the registrar."

"Following my enquiries with the General Registry Office I can confirm the following process is followed with regards to the storage of notices of intention. The notices are initially displayed in the registry office for a period of 15 days on the registry offices notice board. Following this period the full notices are

stored within the registry office and an abbreviated version of the notice is created for public record.

The full notice is stored in a secure area and the full notices are not accessible to the public. The full notices can be accessed by registry office staff and the police provided that they are investigating offences relevant to the marriages act.

In any other circumstances however the police and any other body who require access to these notices require authorisation from a court to do so. Therefore the full record of the notice of intention is not available for public inspection following the end of the 15 day period.

Some of the information within the notices of intention are stored in an abbreviated version within a notice book or on a electronic register, depending on when the notice of intention was completed. All notices of intention prior to 16 November 2009 are stored within a notice book and all notices of intention given subsequently are stored within a register which forms a searchable electronic database."

"Members of the public may access both the notice books and the electronic database. With regards to both versions of this information they are not available for unlimited interrogation, rather it is open to members of the public to request a report for a particular date or specific time period where they would like to view all of the notices given. This availability of information means that should a member of the public be in possession [sic] of the date and registry office they would be able to view the names of the couples who gave notice of intention that day and match the information.

With regards to the implication of providing the dates and locations of the registry offices it is considered in light of the way in which notices of intention are stored although the date and registry office would not be sufficient to access the full notices of intention for the reasons described above, it would be sufficient to identify the individuals names in relation to the report of a suspicious marriage. It is considered therefore that the provision of the date and registry office would lead to personal information being released in an unfair manner and as such that the date and registry office would be exempt from disclosure under section 40(2).

The information provided above has been provided by the General Registry office through their central help line".

68. Although not necessary as part of this Notice – as the appropriate limit has since been cited – the Commissioner's earlier investigation had already given him the initial view that releasing the name of the registry office, coupled with the date on the report, could allow for an inspection of the '*notice books*' or the '*electronic database*' to be made and for the identity of the parties to be ascertained. He therefore believes that disclosing the name of a register office along with the date that the parties registered their intent to marry, would constitute the disclosure of the 'personal data' of the affected parties. Furthermore, as the reports relate to a suspicion of criminality, the Commissioner would conclude that it is their 'sensitive personal data'.
69. Although he has not at this stage been required to draw a firm conclusion, the Commissioner believes that it is likely that he would conclude that disclosure would breach the Data Protection Act.

Right of Appeal

70. 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 17th day of February 2011

Signed

**Jon Manners
Group Manager**

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

Legal Annex

Freedom of Information Act 2000

Right of Access

Section 1 provides that -

- (1) 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.

Time for compliance

Section 10 provides that -

- (1) 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.

Cost of compliance exceeds appropriate limit

Section 12 provides that -

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
- (4) The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –
- (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,
- the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

Duty to provide advice and assistance

Section 16 provides that -

- (1) 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 who propose to make, or have made, requests for information to it.
- (2) Any public authority which, in relation to the provision of advice and assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.

Refusal of request

Section 17 provides that -

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –

- (a) states the fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.