

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 6 February 2023

Public Authority: Department for International Trade
Address: Old Admiralty Building
Admiralty Place
London
SW1A 2DY

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as “an information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-181679-G2J0, for a decision whether a request for information made by the complainant to the Department for International Trade (DIT) on 30 December 2021, has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. The complainant originally submitted a request to DIT on 29 November 2021 seeking correspondence between Ben Houchen, (Tees Valley Mayor) and Lord Grimstone, and details of any meetings between them, for the period 18 March 2020 to 29 November 2021.

3. DIT responded on 29 December 2021 and refused the request on the basis of section 12(1) (cost limit) of FOIA.

4. The complainant submitted the refined request on 30 December 2021:

'I am happy to limit the scope of this request in the following manner.

With regards to the issue of non-email platforms used by Lord Grimstone's office, with the burden issues set out in your response, I am happy to limit the scope of this request in relation to Lord Grimstone's office to departmental email correspondence only.

Then please check only for Lord Grimstone himself his work email account, any private email account/s he uses for government business, as well as WhatsApp messages on any work or privately owned mobile device, as well as any texts, Signal messages, or any other messaging app on these devices, that constitute correspondence on governmental matters with Ben Houchen.

For the rest of the request, I am happy for a search of Lord Grimstone's diary for meetings to be limited to meetings whose titles/subjects include the word Houchen or Ben Houchen, or the Tees Valley Combined Authority. A simple text search should return a list of these meetings from an exported version of Lord Grimstone's diary, and this is unlikely to be excessively burdensome to extract. This should also significantly reduce the burden of retrieving documents related to these meetings.

-It seems highly unlikely that copying and pasting the titles of attachment documents from correspondence into a word document would be excessively burdensome to extract.

I am happy to omit the setting up and summarising correspondence requested, but please still provide a copy of any briefing notes prepared for Lord Grimstone ahead of these meetings.'

5. DIT responded on 7 April 2022. It provided calendar invitations for the meetings falling within the scope of the request as well as correspondence between Lord Grimstone's office and Ben Houchen, noting that parts of this had been redacted on the basis of section 40(2) (personal data) of FOIA. DIT explained that further information falling

within the scope of the request was exempt from disclosure on the basis of the following sections of FOIA: 27(1)(a), (c) and (d) (international relations), 35(1)(a) (formulation or development of government policy), 43(2) (commercial interests) and 41(1) (information provided in confidence).

6. The complainant contacted DIT on 11 April 2022 and asked it to conduct an internal review of this refusal.
7. The complainant contacted the Commissioner on 18 July 2022 in order to complain about DIT's refusal of his request and its failure to complete the internal review.
8. DIT informed the complainant of the outcome of the internal review on 30 September 2022. It provided the titles/subjects of the three meetings falling within the scope of the request and also clarified the nature of information that it held falling within the scope of the request. DIT also explained how it considered the exemptions previously cited, and section 29(1)(a) (economy) of FOIA, provided a basis to withhold the remaining information falling within the scope of the request.
9. The complainant contacted the Commissioner again on 4 October 2022 and explained that he remained dissatisfied with DIT's decision to withhold information following the internal review.
10. The Commissioner contacted DIT on 7 December 2022 in relation to this complaint. The Commissioner asked to be provided with a copy of the withheld information and submissions from DIT to support its reliance on the various exemptions it had cited. The Commissioner asked for a response to his letter within 10 working days, ie by 21 December 2022.
11. DIT contacted the Commissioner on 19 December 2022. It explained that this was a complex case and it needed additional time to consider and respond to the Commissioner's letter, especially taking into account the forthcoming Christmas period. DIT asked for an extension until 16 January 2023. The Commissioner agreed to this extension.
12. DIT contacted the Commissioner on 13 January 2023 and explained that it would be unlikely to meet the deadline and asked for an additional extension. The Commissioner agreed a further extension until 20 January 2023.
13. DIT contacted the Commissioner again on 20 January 2023 and sought a revision to this deadline. The Commissioner agreed a further extension until 27 January 2023, but noted that given the ongoing delays he was of the view that if this deadline was not met then it would be appropriate to consider issuing an Information Notice.

14. DIT contacted the Commissioner on 27 January 2023 and explained that it was not yet in a position to provide him with a full response to his letter of 7 December 2022. The Commissioner explained that in view of this he intended to serve an Information Notice on DIT requiring it to provide a response to his earlier letter.
15. In reaching this point the Commissioner wishes to acknowledge that DIT's Information Rights team have kept him proactively updated at various stages as to the progress of preparing the response; the Commissioner welcomes this communication. He also notes the efforts DIT's Information Rights team have been making to progress this matter so that the department is in a position to respond to the Commissioner's letter.

Information required

16. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that DIT shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
17. A full and complete response to his letter of 7 December 2022, ie an unredacted copy of the information falling within the scope of the request and further submissions to support DIT's reliance on the various exemptions it has cited.

Failure to comply

18. 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 FOIA, and may be dealt with as a contempt of court.

Right of appeal

19. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

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

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@Justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF