

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 September 2024

Public Authority: Ministry of Defence

Address: Whitehall
London
SW1A 2HB

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-296331-V8L2, for a decision whether a request for information made by the complainant to Ministry of Defence (MOD) on 19 September 2023, has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. Following the previous requests on the same subject, the complainant submitted the following request to the MOD on 19 September 2023:

“To further refine my request, I would like access to all communications involving only the Secretary of State for Defence regarding the housing of asylum seekers at RAF Scampton sent in the last month. Please note, this includes both of the holders of this position in the specified period. I will be willing to further refine my request if necessary.”
3. The MOD responded to the request on 20 November 2023. It disclosed some information falling within the scope of the request but withheld the remaining information on the basis of sections 26(1)(b) (defence), 35(1)(d) (operation of a Ministerial private office), 40 (personal data) and 43(2) (commercial interests) of FOIA.
4. The complainant contacted the MOD on 10 December 2023 and asked it to conduct an internal review with regard to the exemptions cited in the refusal notice.
5. The Commissioner’s understanding is that the MOD did not complete the internal review.
6. The complainant contacted the Commissioner on 21 March 2024 about the MOD’s decision to withhold information falling within the scope of his request on the basis of the exemptions cited in the refusal notice. He was also dissatisfied that the internal review had not been completed.
7. The Commissioner contacted the MOD on 2 July 2024 and asked it to provide him with a copy of the withheld information and submissions to support the application of the exemptions cited. The Commissioner asked for a response within 10 working days. Having failed to receive a response, the Commissioner chased this matter on 2 August 2024. The Commissioner has still not received any response to his letter of 2 July 2024.

Information required

8. 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 the MOD shall, within 30 calendar days of the date of this

notice, furnish the Commissioner with a copy of the following information:

- A full and complete response to his letter of 2 July 2024.

Failure to comply

9. 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

10. 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

11. 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 by

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