

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 December 2019

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Section 51

Under section 51 of the Freedom of Information Act 2000 (the "Act"), 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 her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

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

she may serve the authority with a notice (in this Act 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 FS50830195, for a decision whether a request for information made by the complainant to the Cabinet Office on 5 December 2018, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. On 5 December 2018 the complainant wrote to the Cabinet Office and requested information in the following terms:

"I understand that the Cabinet Office has a folder dedicated to the book INSIDE INTELLIGENCE by Anthony Cavendish.

<http://discovery.nationalarchives.gov.uk/details/r/C16204475>

As I understand it, the folder is currently in possession of the Cabinet Office. I would like to have copies of the documents within this folder to be released to me."

3. On 4 January 2019 the Cabinet Office responded with a refusal notice in reliance of section 23 FOIA. The complainant requested an internal review of the decision to withhold the requested information.
4. The internal review was provided on 4 February 2019 upholding reliance on section 23(1) and in addition sections 38(1)(b) and 41(1).
5. On 18 March 2019 the complainant contacted the Commissioner to complain about the Cabinet Office responses.
6. On 23 July 2019 the Commissioner wrote to the Cabinet Office requesting its submissions on the application of the exemptions.
7. On 19 August 2019 the Cabinet Office responded with its submission advising the Commissioner:

"Due to the security classification of the file and the contents, the Cabinet Office is unable to provide a copy of the contents to the ICO. We will, under the terms of the Memorandum of Understanding, issue a Letter of Assurance from an appropriate person detailing that section 23 of the Act applies to material within the file."
8. The Letter of Assurance was not attached to the submission. On 20 August 2019 the Commissioner advised the Cabinet Office that the Letter of Assurance was missing. She received no response.
9. Again on 8 October 2019 and on 19 November 2019 the Commissioner contacted the Cabinet Office requesting the Letter of Assurance. No reply was forthcoming.
10. As of the date of this Notice the Cabinet Office has failed to respond to the Commissioner.

Information required

11. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act she requires that the Cabinet Office shall, within 30 days of the date of this notice, furnish the Commissioner with a copy of the following information.
- The Letter of Assurance referenced in its submission of 19 August 2019.

Failure to comply

12. 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

13. 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: 0300 1234504
Fax: 0870 739 5836
Email: grc@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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

Susan Hughes
Senior Case Officer
Information Commissioner's Office
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Wilmslow
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