

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 December 2019

Public Authority: Cabinet Office
Address: 70 Whitehall
London
W1A 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 FS50831429 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 FS50831429, for a decision whether a request for information made by the complainant to the Cabinet Office on 8 August 2019, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. On 27 August 2018, the complainant requested information of the following description:

“Please provide a copy of all documents prepared between 1st January 2010 and 12th May 2010 to be provided to Gordon Brown in the eventuality that he was re-elected Prime Minister at the 2010 general election.

Please send me this information by e-mail to [email address provided], in a machine readable format such as .csv or .xlsx where appropriate.

If you have any queries about this request please contact me on [telephone number provided].

If you are encountering practical difficulties complying with this request, please contact me so that we can discuss the matter and if necessary I can modify the request.”

3. The Cabinet Office wrote to him on 25 September 2018 to explain that it needed further time to consider the balance of public interest in respect of section 35 but undertook to provide him with a response by 23 October 2018. It then provided its response to his request on 27 September 2018 but sought to rely on section 36(2)(b)(i) and (ii) as its basis for refusing to provide the requested information.
4. The complainant requested an internal review on 28 September 2018 but to date does not appear to have received one. The complainant sought the Commissioner’s intervention on this in March 2019. The Commissioner wrote to the Cabinet Office about this on 26 April 2019, however, this did not appear to yield a response and the Commissioner took the complaint forward.
5. The complainant wrote to the Commissioner on 8 August 2019 having previously contacted the Commissioner regarding delays on the Cabinet Office’s part.
6. The Commissioner wrote to the Cabinet Office on 6 November 2019 with a series of questions about its reliance on the exemptions it cited when refusing the request and any new exemptions it wished to rely upon. She also asked for a copy of the withheld information. She asked the Cabinet Office to reply in full by 3 December 2019. When the Commissioner did not receive any reply, she wrote again to the Cabinet Office on 4 December 2019 to ask it for a response. In that letter she reminded the Cabinet Office of her formal information gathering powers

under section 51 of the FOIA. As at the date of this notice, the Commissioner has not received a response.

Information required

7. 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:
 - its full and final response to the Commissioner's letter of 6 November 2019.

Failure to comply

8. 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

9. 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

10. 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

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