

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)**

**DECISION NOTICE**

**Dated 27<sup>th</sup> June 2005**

**Name of Public Authority:** Department for Work and Pensions

**Address of Public Authority:** 10 Montague Road  
Hounslow  
Middlesex  
TW3 1LE

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which follows a recent request for information. The complainant states that on 6 January 2005 the following information relating to the discontinuance of social security payment by order book was requested from the Hounslow office of the Department for Work and Pensions (the "DWP") under the Freedom of Information Act 2000 (the "Act"):

"(1) Is there any statutory enabling power re discontinuance of payment by order book – yes or no?

(2) If yes, then cite it - i.e. the act, the section and the regulations thereunder

(3) If discontinuance of payment by order book is the consequence of some non-statutory order or decision by some person(s), such as the Chancellor of the Exchequer or the Secretary of State for Work and Pensions, then name those persons and cite the order or decision and provide me with a copy thereof

(4) Do I have any right of appeal re discontinuance of payment by order book – yes or no?

(5) If yes, kindly send me the forms and information re the appeals procedure"

It is alleged that, with the exception of (4) and (5) above, the DWP failed to provide the complainant with the information he requested.

**The Commissioner's Decision**

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner

has a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

Section 1(1) of the Act states –

“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.”

Section 10(1) of the Act states –

“...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”.

By virtue of section 17 of the Act, where a public authority is to any extent relying on a claim that any of the exemptions in Part II apply to the request it must, within the time for complying with section 1(1), give the applicant a notice of refusal.

Although the DWP wrote to the complainant on 27<sup>th</sup> April 2005, providing some information regarding the policy on payment of benefits, it did not provide the information requested by the complainant nor did it confirm or deny that it held that information.

The Commissioner’s decision is that the DWP has not dealt with the complainant’s request in accordance with the requirements of Part I of the Act in that it has failed to either comply with section 1(1) or section 17 within the time limit set out in section 10(1).

### **Action Required**

In view of the matters referred to above the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he requires that the DWP shall, within 30 days of the date of this Decision Notice -

- (a) inform the complainant whether it holds information of the description specified in his request and, if it does, provide that information to him in accordance with section 1 of the Act, or
- (b) provide the complainant with a refusal notice in accordance with section 17 of the Act and
- (c) confirm to the Commissioner that the above steps have been taken.

**Failure to comply**

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**

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 277
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 27th day of June 2005

Signed: .....

Graham Smith  
Deputy Commissioner

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