

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

**DECISION NOTICE**

**Dated 25<sup>th</sup> November 2005**

**Name of Public Authority:**        **The Adjudicator for the Inland Revenue  
and Customs and Excise**

**Address of Public Authority:**   **Haymarket House  
Haymarket  
London  
SW1Y 4SP**

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint on 17<sup>th</sup> March 2005 which states that on the 5<sup>th</sup> February 2005 the following information was requested from the Adjudicator for the Inland Revenue and Customs and Excise (the Adjudicator's Office) under section 1 of the Freedom of Information Act 2000 (the "Act"):

Information relating to the interpretation of the Adjudicator's Office Service Level Agreement, namely the reasons for:

- restricting your service, to the detriment of the public, when the wording of your Service Agreement authorises a wider approach, (as promised by your publicity)
- omitting any reference in your publicity to this arbitrary limitation of your remit.

This was later clarified on 2<sup>nd</sup> March 2005 to include the following questions:

- Who decided on this interpretation?
- What is the legal justification for this interpretation?
- What, if any, are the (a) practical, (b) ethical (c) equitable reasons for this interpretation?
- Why is there no reference to this limitation of the Adjudicator's remit in the Adjudicator's leaflet and website?

For the purposes of dealing with the case, this office considers that the complainant's second dated 2<sup>nd</sup> March 2005 request replaced the initial request, dated 5<sup>th</sup> February 2005.

It is alleged that:

- 1) The Adjudicator's Office refused to supply the information requested by the complainant.
- 2) The Adjudicator's Office failed to provide advice and assistance under s.16 of the Act which would have allowed the complainant to reformat his request in order to receive 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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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.

The Commissioner's decision is as follows:

On the 10<sup>th</sup> February the Adjudicator's Office responded to the request by directing the complainant to a number of documents which outlined the remit of the Adjudicator's office and its Service Level Agreement. It was believed that both documents were already in the possession of the complainant. In later correspondence, The Adjudicator's Office made it clear that they did not hold any further information on the subject and therefore could not provide information to answer the questions outlined above.

The Information Commissioner's Office is satisfied that the Adjudicator's Office does not hold the information requested by the complainant. Whilst we appreciate that the complainant disagrees with the Adjudicator's Office, in its interpretation of its Service Level Agreement, this does not mean that the Adjudicator's Office will hold any further information on this subject. Unlike the complainant the Adjudicator's Office do not regard the interpretation of its Service Level Agreement as a contentious issue. For them its meaning is self evident. They understand what is meant by it and do not need to question its interpretation. Therefore it would not be necessary for them to have recorded information on why they interpret it in the way that they do. It is for these reasons that we do not regard the Adjudicator's Office to have breached s.1 of the Act.

The Adjudicator's Office has been in prolonged correspondence with the complainant both prior to and after 1 January 2005 and have provided the complainant with all the information they held in relation to the request. The Adjudicator's Office hold no further information relating to its Service Level Agreement and so are not in a position to provide advice and assistance to the complainant. The adjudicator's office is not in breach of s.16 of the Act.

### Action Required

In view of these matters the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by the Adjudicator's Office.

### 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 877
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 25th day of November 2005

Signed: .....

Richard Thomas  
Information Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF