

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 9<sup>th</sup> November 2005

**Name of Public Authority:** Home Office  
**Address of Public Authority:** 2 Marsham Street  
London  
SW1P 4DF

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 4<sup>th</sup> February 2005 the following information was requested from the Home Office under section 1 of the Freedom of Information Act 2000 (the "Act"):

"(a) grade of female member of staff subject to investigation (please identify clearly any that were Governor grades)  
(b) identify in general terms where the employee was employed; e.g. an establishment, H.Q., Area Office, or elsewhere (please specify)  
(c) whether or not the member of staff was suspended from duty  
(d) the date the suspension commenced and the period of suspension  
(e) a full description of the alleged 'inappropriate behaviour'  
(f) please specify the gender, role and status of the complaint  
(g) the outcome of the investigation e.g. whether the complaint was upheld or unfounded, whether any disciplinary action was taken and the outcome."

It is alleged that the Home Office:

- (1) failed to provide the information within 20 working days.
- (2) incorrectly stated that the cost of supplying the information would exceed the appropriate limit.
- (3) failed in their duty to provide advice and assistance.

#### **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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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:

(1) The complainant made his request by e mail dated 4<sup>th</sup> February 2005. Although there was an initial response, the Home Office did not comply with section 1 of the Act until 11<sup>th</sup> May 2005. The Home Office has therefore not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 10(1).

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."

(2) The Home Office supplied the complainant with a breakdown of investigations carried out into the conduct of female staff. However, the Home Office maintained that some of the information requested by the complainant, such as the grade of those members of staff concerned, could not be provided as it would exceed the cost limit of £600 as prescribed in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The Commissioner is satisfied with the explanation provided to him by the Home Office for the basis of its cost estimate. The Home Office correctly applied the Regulations and did provide information up to the cost limit.

Section 12(1) of the Act states:

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

(3) When informing the complainant that his information request could not be complied with in full as to do so would exceed the cost limit, the Home Office did not provide appropriate advice and assistance to the complainant by, for example, providing advice as to how the request could be refined in order that it would be possible to comply with it in full without exceeding the cost limit. The Home Office has therefore not dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has failed to comply with section 16(1).

Section 16(1) of the Act states:

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

## Action Required

Whilst the conclusion in relation to the allegation that the information request was responded to late was that this complaint was upheld, the Commissioner does not require any action to be taken in connection with this as the request was responded to, albeit outside the twenty working day deadline. With regard to the second upheld complaint, that the Home Office failed to offer advice and assistance in connection with this information request, the Commissioner understands that the complainant has since made a number of refined information requests to the Home Office and so further action is not necessary in response to this complaint. In view of these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the Home 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 9<sup>th</sup> day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF