



FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 20 April 2006

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

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint from the above person (the "complainant") which states that on 29 April 2005 the following information was requested from the Cabinet Office under section 1 of the Freedom of Information Act 2000 (the "Act"):

"...copies of all correspondence and evidence supplied by Sir Nicholas Bonsor Bt a former Foreign Office Minister and former Chairman of the Defence Select Committee to the Scott Inquiry."

It is alleged that:

1. The information requested was withheld without valid reason for this.
2. The response to the request did not constitute a valid refusal notice.

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 Cabinet Office have stated that they are not able to locate the precise location of a document within the Scott Inquiry archives due to the way these archives are structured, but are able to identify the likely location of a document. If the document in question is not held in what was believed to be the most likely location it is necessary to broaden the search, potentially to the entire record of the

Scott Inquiry.

The Cabinet Office have stated that a search of the Inquiry files in which it was considered most likely that the information requested would be held was carried out and that the information requested was not located within these files. The Cabinet Office have also stated that to carry out a search of the entire records of the Scott Inquiry would incur costs higher than the limit of £600 for central government departments. This was calculated on the basis of one member of staff taking a minimum of 10 minutes to search each file, of which there are 400 in the records of the Scott Inquiry. On the basis of the standard rate of £25 per hour provided for in The Freedom of Information (Appropriate Limit and Fees) Regulations 2004, searching the entire file would incur costs greater than £600.

In this instance, it was felt appropriate for a representative of the Information Commissioner to visit the Cabinet Office in order to inspect the relevant archive and the way in which the files and documents were stored and indexed. As a result of this inspection by a senior member of the Commissioner's staff, the Commissioner accepts the representations of the Cabinet Office that the information requested was not held within the files that were searched and that to search the entire records of the Scott Inquiry would incur costs for the Cabinet Office in excess of the appropriate limit of £600.

The decision of the Commissioner, therefore, is that the Cabinet Office have complied with Part I of the Act in that the information requested could not be provided in accordance with section 1(1) of the Act as to locate this information would exceed the cost limit provided in section 12(1) of the Act.

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 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."

2. The response from the Cabinet Office to the complainant stated only that it had not been possible to locate the information requested. It did not advise that only a partial search of the Scott Inquiry records had been carried out as to carry out a wider search would exceed the cost limit. Section 17 of the Act requires that, where a public authority is relying on a claim that section 12 of the Act applies, the requester should be informed of this.

Furthermore, the Commissioner believes that, where a public authority is citing, or should cite, the cost limit, they should provide to the requester a breakdown of how their cost estimate was formed. The Cabinet Office provided no such breakdown to the complainant in this instance when initially responding to the request.

The decision of the Commissioner, therefore, is that the Cabinet Office have not complied with Part I of the Act in that they did not provide a refusal notice adequate for the purposes of section 17(5) of the Act.

Section 17(5) of the Act states:

“A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.”

Action Required

When responding to a request from the complainant that they carry out an internal review of their handling of his information request, the Commissioner understands that the Cabinet Office provided to the complainant a notification that his request was refused on the grounds of cost and information as to how the cost estimate was formed. In view of these matters the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the Cabinet 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: informationtribunal@dca.gsi.gov.uk
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 20 day of April 2006

Signed:

Graham Smith
Deputy Commissioner
Information Commissioner’s Office
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF