



Freedom of Information Act 2000 (Section 50)

Decision Notice

Dated 31 May 2006

Public Authority: Cabinet Office

**Address: Admiralty Arch
The Mall
London
SW1A 2WH**

Summary Decision and Action Required

The Commissioner is satisfied that the Cabinet Office has complied with the Act in applying section 14(1) lawfully. Section 14(1)(1) states:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

- 1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**
 - 1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the complainant's request for information made to the public authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').
 - 1.2 Where a complainant has made an application for a decision, unless:
 - a complainant has failed to exhaust a local complaints procedure, or
 - the application is frivolous or vexatious, or
 - the application has been subject to undue delay, or
 - the application has been withdrawn or abandoned,the Commissioner is under a duty to make a decision.
 - 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

- 1.4 Even though the Commissioner may judge a request for information to have been vexatious, it does not follow that the application for a decision is also vexatious.

2. The Complaint

- 2.1 The complainant has advised that on 25 October 2005 the following information was requested from the Cabinet Office in accordance with section 1 of the Act.
- 2.2 “Please could you advise if the Government owns or leases any [sic] within 4 miles of Poundon village and if so please could you provide details along with a map showing the land buildings and any boundary of Government land or estates in the area.”
- 2.3 On 23 November 2005 the Cabinet Office refused the request on the grounds that it was vexatious.

3. Relevant Statutory Obligations under the Act

- 3.1 **Section 1(1)** provides that –

“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.”

- 3.2 **Section 14(1)** provides –

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.”

4. Review of the case

- 4.1 The focus of the Commissioner’s investigation has been on the stated ground for the refusal of the complainant’s request for information. The Commissioner has not considered whether, in the event that he does not agree that section 14 has been properly applied, there exist any other grounds for the refusal of the request.
- 4.2 The complainant has stated that the Cabinet Office was wrong to refuse the request on the ground that it was vexatious. The complainant claims to be a freelance journalist who uses the Act to obtain information for his work and that the basis for deeming his request vexatious is flawed in that this is only his eleventh request to the Cabinet Office.
- 4.3 The public authority advised the Commissioner that it had refused the complainant’s request on the grounds that the volume of requests received from

the complainant had placed an unreasonable burden on the public authority. The Public Authority informed in February 2006 that, over the previous year, the complainant had made 347 requests to the police, 412 to the Ministry of Defence and 22 to the Cabinet Office. It is not known how many requests had been made to other public authorities. In addition the public authority had serious concerns about the intention of the requests and the use to which the information requested may be put.

5. The Commissioner's Decision

The Commissioner's approach has followed and developed that which he adopted in Case FS50078594 (Birmingham City Council). The major difference in this case is that the volume of cases affected a number of public authorities, not just one. In his consideration of this complaint, the Commissioner has remained mindful that section 14 applies to requests received by a Public Authority, not to the person who has submitted the request. Nevertheless, the Commissioner has concluded that the Cabinet Office (as the public authority dealing with this request) and he (as the person required to consider the complaint) are entitled to take into account their knowledge as to the total volume of requests made by the same individual.

In making this decision he has drawn upon **Freedom of Information Act Awareness Guidance No 22: Vexatious and Repeated Requests** (See Annex A) and has also considered jurisprudence from other legislative environments (See Annex B). However, it is important to note that the Awareness Guidance Notes are not an addendum to the Act and are intended to introduce some of the key concepts and suggest approaches to be taken in the consideration of the application of the exemption.

In line with Awareness Guidance No 22, The Commissioner's general approach has been to consider whether the Cabinet Office has demonstrated that the requests;

- would impose a significant burden on the public authorities taken together;
- have the effect of harassing them; or
- could otherwise fairly be characterised as obsessive or manifestly unreasonable.

In this case, the volume of requests known to have been made is in excess of 750 in a single year. This fact is not in dispute. This is more than seven times the number of requests made in Case FS50078594. The Commissioner considers that, although it may not have been the explicit intention of the complainant to cause inconvenience or expense, the main effect of the requests would be to impose disproportionate inconvenience and expense to the public authorities taken together.

He considers that it is entirely appropriate for the Cabinet Office to consider the aggregated effect of dealing with all the requests known to have been made across the public sector. The frequency and number of requests demonstrates that the effect of complying with the requests would clearly place a very substantial burden on the public authorities concerned. The Commissioner considers that in this case it can be clearly demonstrated that dealing with the request(s) would divert a

substantial amount of the resources of the public authorities concerned. This would be an entirely unjustified burden and not a good use of public funds. It would also discredit the Freedom of Information legislation and impose delays on those with fewer and more reasonable requests.

The Commissioner has also concluded that the volume of requests means that, taken together, they formed a pattern whose the cumulative effect would be characterised by any reasonable person as obsessive and manifestly unreasonable and having the effect of harassing the public authorities.

In this case, therefore, it is the Commissioner's view that the scale of the complainant's requests as known to the Cabinet Office means that each successive request, including the one on which this complaint is based, represented a continuation of behaviour which was vexatious. Accordingly the Commissioner concludes the request on which this complaint was based was vexatious and that the Cabinet Office complied with the Act in applying section 14(1) lawfully.

The Commissioner stresses that he has reached the above conclusions by reference only to the volume of over 750 requests from a single requester. Without ruling them to be irrelevant, he has not found it necessary to consider the concerns raised by the Cabinet Office about the intention of the requests or the use to which the information requested may be put.

6. Right of Appeal

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

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

- 6.2 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 31st day of May 2006

Signed

Ref: FS50099755

Richard Thomas
Information Commissioner

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