Information Commissioner's Office

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 8 January 2008

Public Authority: The Department for Business Enterprise & Regulatory Reform (BERR) (formerly Department of Trade and Industry (DTI))
Address: V LG140
1 Victoria Street
London
SW1H 0ET

Summary

1. The complainant made a request to the former Department of Trade and Industry (DTI) for release of the information which led to the inclusion of Regulation 17 in the Part-Time Workers Regulations 2000. DTI refused to release the information relying upon the exemptions in sections 35 and 42 of the Act. DTI also sought to apply the exemption in section 36 in respect of one document after the Commissioner's investigation had commenced. The Commissioner has examined the exempt information and is satisfied that the public authority has correctly applied the exemptions above. However the Commissioner finds, in respect of one document withheld under section 35(1)(a), that the public interest in maintaining the exemption does not outweigh the public interest in disclosure and accordingly orders release of it. Finally, the Commissioner found that DTI did not respond to the complainant's request in compliance with sections 10 and 17 of the Act.

The Commissioner's Role

2. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

3. On 13 April 2005 the complainant wrote to the DTI (to which, for convenience, we refer throughout this report) in connection with The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 asking for disclosure of:

"all documents relating to the inclusion of what became Regulation 17 including, but not limited to, all letters, memoranda, e-mails, minutes and drafts produced internally or passing between DTI and the Lord Chancellor's Department/Department for Constitutional Affairs and/or the Treasury and/or the Department for Work and Pensions and/or any other person or body relating to the form of, the reasons and justification for, and/or the validity of Regulation 17."

4. On 17 May 2005 the DTI replied. It explained that the information was being withheld as it was considered to fall under the exemptions in sections 35(1) (a), 35(1) (b) and 42 of the Act. Although the department decided not to disclose the documents to the complainant it did set out, in the refusal letter, some of the background to the inclusion of the Regulation.

5. It explained that part-time (or fee-paid) judicial office holders had not been considered in the past as workers for the purposes of domestic law, nor had they generally been considered as "part-timers" in the conventional sense of the term. The Government therefore took the view that certain of the benefits in kind that were provided to part-time employees were not appropriate to the particular circumstances of fee-paid judicial office-holders, the great majority of whom were practitioners otherwise engaged in legal practice. The Government took the view that fee-paid judicial office holders were not workers for the purpose of the Part Time Work Directive and, on the basis of previous precedent, that there would have been no expectation that the Regulations would have had application to them. However, because of the uncertainty that arose in respect of other Regulations, it was felt appropriate in implementing the Directive to include a specific exemption for the avoidance of doubt.

6. On 20 May 2005 the complainant asked for an internal review of the decision. In his view policy did not arise in this matter and he did not consider that every letter, email, minute, and draft produced could be covered by the exemption in section 35. He did accept that section 42 might be appropriate where there was actual or contemplated litigation over Regulation 17 and he said that he did not seek disclosure of such documents.

7. On 21 June 2005 the Director General at DTI with responsibility for the policy area within which the complainant's request fell replied that the review had been concluded and, as a result, two documents were going to be released. The complainant was told, however, that the remainder of the documents would continue to be withheld in accordance with the original decision. The two documents mentioned above were released to the complainant on 23 June 2005. They consisted of a redacted letter from a part-time Employment Tribunal Chairman who had made an enquiry about pension rights in the context of the Part –Time Workers Regulations, and a draft reply.

The Investigation

Scope of the case

8. On 27 June 2005 the complainant contacted the Commissioner to complain about the way in which his request for information had been handled. He asked that DTI be required to disclose the information sought.

Chronology

9. On 4 October 2006 the Commissioner wrote to the DTI asking for copies of the information withheld from the complainant. On 21 November 2006 DTI replied, enclosing the information and offering further explanation and the rationale behind the department's decision to withhold the information. DTI explained that it had originally withheld nine documents under the exemptions in section 35 and 42 and now sought to apply a further exemption in section 36 in respect of one of the documents.

10. The documents withheld under section 35 are numbered B1, B2, B5, B8 (part), and B9. The documents withheld under section 42 are numbered B3, B4, B6, B7, and B8 (part). DTI now considers that B9 is more appropriately covered by the exemption in section 36(2) (b) (i) than by section 35.

11. The Commissioner wrote to the DTI with further enquiries on 22 February 2007. He asked, in relation to the introduction of an alternative exemption (section 36(2) (b) (i), for confirmation that the process of seeking the opinion of the qualified person had been clearly documented and the decision recorded. DTI replied on 16 April 2007 confirming that the qualified person approving the application of section 36 to document B9 was Jim Fitzpatrick, Parliamentary Under Secretary for Employment Relations. DTI also confirmed that the process had been clearly documented.

12. The Commissioner wrote to DTI with further enquiries about the qualified person process on 5 July 2007. DTI replied on 10 September 2007. DTI confirmed to the Commissioner that a submission had been made to the Minister on 13 April 2007, updating him on the case generally and specifically raising the position of document B9 with advice that it should be withheld under section 36(2) (a) in addition to the previously agreed (within DTI) section 36(2) (b) (i). As part of that submission the Minister was provided with a draft of the DTI reply to the Commissioner. DTI is therefore of the view that the Minister was therefore fully apprised of the arguments, and his office gave agreement to the recommendations on 16 April 2007.

Findings of fact

13. Council Directive 97/81/EC ('the Directive') required member states of the European Union to implement in their domestic law certain provisions preventing discrimination against part-time workers. By Council Directive 98/23/EC the UK was required to implement the Directive in UK domestic law by 7 April 2000.

14. In January 2000 the DTI published a consultation paper (URN 99/1224) to which draft regulations, proposed for the implementation of the Directive were annexed. The Directive contained no permitted derogation from its requirements in the cases of judges who work part-time and none was proposed either in the consultation paper or the draft regulations.

15. The regulations were made on 8 June 2000 and included a provision, Regulation 17, which had no equivalent in the consultation draft and which sought to exclude part-time judicial office holders.

Procedural matters

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16. DTI acknowledged the complainant's request of 13 April 2005 on 29 April 2005. It then wrote to him on 17 May 2005 to tell him that the exemptions at section 35 and 42 were being applied, and outlined the public interest arguments that it had considered in reaching the decision to withhold the information. This refusal notice was issued outside, although not significantly so, of the twenty working days. The refusal notice did not inform the complainant that section 36 also applied, which DTI later relied on in its correspondence with the Commissioner.

17. **Section 10**

    Section 1 of the Act states that a person making a request for information is entitled to be informed in writing if the information is held and, if so, to have the information communicated to him. Section 10 provides that a public authority must comply with section 1 of the Act no later than the twentieth working day following receipt of the request. Full texts of the relevant sections are included in the 'legal annex' section of this notice.

    Section 10(3) allows the 20 working day time limit to be extended to a reasonable time where a public authority is considering the public interest test because one of the qualified exemptions may apply. The public authority must, in its refusal notice, inform the applicant that it needs more time to consider the public interest and give an estimate of the date by which it will make its decision. In this instance the public authority did not reply within the statutory time limit nor did it attempt extend the date for consideration of the public interest test in relation to the exemptions it had cited.

    Following the completion of the internal review, DTI released some additional information to the complainant on 23 June 2005. This release of information was made outside the 20 day statutory limit and DTI is therefore in breach of section 10 of the Act.

18. **Section 17**

    Section 17(1) states that a public authority which is relying on a claim that the information is exempt must, within the time for complying issue a refusal notice which:

    (a) states the fact that information is exempt,

(b) specifies the exemption in question, and
(c) states why the exemption applies.

Section 17(3) states that if a public authority is relying on a qualified exemption it must state the reasons for claiming that, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The Commissioner finds that the public authority breached section 17 of the Act by failing to cite the correct exemptions in respect of the withheld material, namely section 36, until after the commencement of his investigation into the complaint.

Analysis

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19. The Commissioner has considered DTI's use of the exemptions in sections 35, 36 and 42 of the Act in dealing with this request. The full text of these exemptions is contained in the legal annex.

Exemption

20. Section 35 is a class based exemption which potentially exempts information relating to the formulation of government policy, Ministerial communications, and the advice or the operation of any Ministerial private office.

21. DTI considers that documents withheld under the exemption in section 35 (B1, B2, B5, and B8) relate to policy development and to communications between Ministers but, insofar as the content of these documents is not held to be so related, the exemption in section 36 applies. The Commissioner has previously given his view of the use of section 36 in the alternative to section 35. In Decision Notice FS50079488 he considered that it was a highly undesirable approach which should only be adopted very exceptionally in cases of very genuine doubt. Given that the Act strongly suggests that the two exemptions are mutually exclusive, and that section 36 only applies when section 35 does not, the Commissioner expects a public authority to rely on the most appropriate exemption and explain why it applies in any particular case.

22. Since section 36 does not apply to information which is exempt by virtue of section 35, and the Commissioner accepts that section 35 does apply to the information in these documents, the information therefore cannot be exempt by virtue of section 36.He has therefore only considered the application of section 35 in relation to documents B1, B2, B5, and B8 in this case.

23. To engage the exemption in section 35 it is not necessary to demonstrate that prejudice would occur if the information were to be disclosed; the information must simply fall within the class of information covered by the exemption. However, the exemption is qualified which means that, for the exemption to provide a basis for withholding the information requested in all the circumstances of the case, the

public authority must demonstrate that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 35 (1) (a) – formulation or development of government policy Documents B2 and B8.

DTI's view

24. DTI is relying on two exemptions for document B8, section 35 (1) (a) and section 42. Having had sight of the document the Commissioner takes the view that this particular document is more closely related to the kind of information normally withheld under section 42 and so has not considered the application of section 35 in relation to it. This leaves document B2 as the only document said to be covered by the exemption in section 35(1) (a).

25. DTI acknowledges the public interest in openness and transparency in Government decision making. However it argues that considering how to transpose an EU Directive into domestic legislation does, on occasion, raise policy issues. It argues that implementation very often involves difficult judgements and discretionary decisions. It contends that it is important to distinguish between explaining public policy or a particular position and protecting the process by which the decision was reached. That is why it took the opportunity to explain the rationale behind the inclusion of Regulation 17 in its initial refusal letter to the complainant dated 17 May 2005.

26. DTI argues that release of the information would undermine the ability of departments to debate issues freely and in confidence, while reaching what is ultimately a decision by the Government and for which Government is responsible. It also argues that release would undermine the space which officials need to develop their own thinking and discuss options and alternatives with other officials in their own and other departments. This would degrade the policy development process, decrease the quality of decision-making, and undermine the principle of collective responsibility.

The complainant's view

27. The complainant accepts that consideration of how to implement an EU Directive may on some occasions raise policy issues: however, he does not feel that this is the case in relation to his specific request. His view is that policy does not arise in this matter and that whether part-time judges work at all and, if they do, whether they do so part-time is determined by the Directive and not by the Government.

28. During the course of the investigation the complainant provided the Commissioner with a reference to a case where the implementation of a European Commission Directive by the UK government was called into question. The case was called Evans v Secretary of State for the Environment Transport and the Regions and is reported as Case C-63/01 [2005] All E R (EC) 763.The subject matter was different to the present case but the complainant pointed out that the government department concerned on that occasion disclosed the internal communications and memoranda which led it to implement the Directive in the way that it did, including its memoranda on discussions with other government departments and

communications with the UK Permanent Representative to the European Community. The complainant feels that this is a comparable case.

The Commissioner's view

29. The Commissioner recognizes that there is a very strong public interest in knowing the reasons for government decisions and how government departments go about the business of implementing European Directives into domestic legislation, particularly where that legislation is likely to affect the financial position of a large body of people. In that context he has noted the case referred to above but must, of course, consider each case on its own merit.

30. He has noted that DTI has given consideration to the public interest arguments in favour of disclosing the information sought. However, in order for information to be released under the exemption, the arguments in favour of disclosure must outweigh those in favour of withholding it. He has taken into account the content and age of the document and the fact that this is the only document in respect of which DTI has relied on the exemption relating to the formulation of policy. He has also noted and taken into account the decisions of the Information Tribunal in the Evening Standard Case (EA2006/0006) on matters relating to the balance of the public interest; and in the case of Hogan v Information Commissioner (EA2005/0026) where the passage of time has an important bearing on the balance of the public interest and that the public interest in preventing disclosure generally diminishes over time. In his view document B2 merely indicates an early interest in consultation between departments on the issue of the Regulations now in force. The Commissioner takes the view that the policy formulation process has come to an end in this case as the policy is now enshrined in the published Regulations. The public interest in withholding this information has therefore diminished and the scope for prejudicing policy formulation no longer exists. In the circumstances the Commissioner is unconvinced that there is any reason for this information to continue to remain exempt.

Section 35(1) (b) Ministerial Communications – documents B1 and B5

31. DTI has provided copies of the documents withheld under this exemption to the Commissioner, who accepts that they relate to ministerial communications and that the exemption is therefore engaged. The exemption is qualified and the Commissioner has therefore considered whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs that in disclosing the information.

32. DTI argues that the information in these documents charts the frank discussion that took place both internally and between government departments. It goes on to say that it is in the public interest to protect Cabinet business and, if internal discussions were exposed, it could highlight divisions within Government, including at Ministerial level. This could in turn undermine the principle of collective Cabinet responsibility which would not be in the public interest.

33. The complainant's view is that a decision was made to try to avoid implementing the Directive in respect of part-time judges. He is seeking the factual basis for

reaching that decision and feels that there is an important public policy interest in disclosing material upon which the truth of the DTI explanation can be assessed.

34. As set out in the recent decision (DN FS50085945) the Commissioner recognizes that maintaining the principle of collective responsibility among Ministers is key to Cabinet government. More recently in the case of FoE v ICO and ECGD (EA/2006/0073) the Tribunal, while considering the notions of collective responsibility and candour in general terms accepted that "*the notion of ministerial collective responsibility represents a fundamental constitutional principle in broad terms: moreover a Minister is accountable to Parliament for the workings and decisions of and within his department*". It goes on to say "*However, Regulation 12(1) (b) of the EIR raises a straightforward issue of whether "in all the circumstances" the public interest in maintaining the exception……… outweighs the public interest in favour of disclosure. There is and can be no immutable rule in terms of reliance upon the collective ministerial responsibility and/or the individual accountability of ministers to Parliament. The Tribunal refutes any suggestion that those notions, either singly or together represent some form of trump card in favour of maintaining the particular exception*". The Commissioner has also taken into account the content and age of these documents but finds, for the same reasons expressed in paragraph 32 above that in this particular case, while the Ministers have changed, the underlying issue remains live.

Section 36(2) (b) (i): Document B9

36. Under section 36(2) (b) (i) information is exempt if, in the reasonable opinion of a qualified person, its disclosure would, or would be likely to inhibit the free and frank provision of advice. The Commissioner has been assured that the qualified person whose opinion was sought in this case was the Secretary of State, and that a record of the relevant decision is held on file.

37. Following the enquiries already detailed in paragraphs 11 & 12 above the Commissioner is satisfied that the reasonable opinion of a qualified person was obtained. He has also considered whether the opinion of the qualified person was in fact "reasonable". . The Commissioner is satisfied that, in the circumstances of this case, the opinion was a reasonable one, and that section 36 is engaged. He takes into account the Information Tribunal decision in the case of Guardian Newspapers Ltd and Heather Brooke v Information Commissioner and the British Broadcasting Corporation, in which the Tribunal states that "if the opinion is reasonable, the Commissioner should not under section 36 substitute his own view for that of the qualified person. Nor should the Tribunal". The Tribunal considered the sense in which the reasonable person's opinion under section 36 is required to be reasonable. It concluded that, in order to satisfy the subsection, the opinion must be both reasonable in substance and reasonably arrived at.

38. The decision goes on to say that the right approach, consistent with the language and scheme of the Act, is that the Commissioner, having accepted the reasonableness of the qualified person's opinion that disclosure of the information would or would be likely to have the stated detrimental effect, must give weight to that opinion as an important piece of evidence in his assessment of the balance of the public interest test. However, in order to form the balancing judgment required

by s2 (2) (b), the Commissioner is entitled, and will need, to form his own view on the severity, extent, and frequency with which detrimental effect will or may occur.

39. The Commissioner is concerned however over the reasonableness of the process concerning the seeking of the opinion of the qualified person. He notes that in this case the qualified person was not consulted in relation to the applicability of section 36 until after the date that the Commissioner's investigation commenced. There is nothing in the Act that indicates at what stage the qualified person should be approached for a view. However the Commissioner would expect it to be at the earliest opportunity where the material is being assessed for possible release.

Public interest test

40. The exemption under section 36 (2) (b) of the Act is a qualified exemption. Accordingly, section 2 of the Act requires the Commissioner to consider whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

DTI's arguments

41. DTI originally applied the exemption in section 35(1) (a) to this document as it felt that the information related to policy formulation. On reflection its view is that the exemption in section 36 (2) (b) (i) is more appropriate. Having viewed the document the Commissioner agrees that section 35 is not engaged as the information relates to a policy issue already determined in the Regulations and that section 36(2) (b) (i) has been correctly applied. However there is a public interest test attached to that exemption. DTI believes that the public interest lies in withholding the document because the information relates to inter-departmental discussion which, if released, would be likely to inhibit officials from providing free and frank advice to both Ministers and other officials. Without such discussions the quality of the debate would decrease and could well result in departments following different lines on the same policy. This would not be in the public interest as it would be likely to result in confusion to the public about the policy direction. In addition, this would undermine the principle of collective Cabinet responsibility as it would expose inter-departmental divisions to the public.

42. Finally, DTI's view is that the provision of advice would be likely to be inhibited if the department released this information. It argues that, if officials believed there was a risk their comments on departmental disagreements could enter the public domain through an FOI request, they would have to weigh the implications of that against the possibility of using other forms of communication.

The Commissioner's view

43. The Commissioner agrees that Ministers and officials must be given space and privacy in order to determine the best approach to take to a particular issue. However it is the Commissioner's view that it would be very naïve of a public authority to expect, in the light of the purpose of the Act, that information held by it in relation to the decisions it makes will remain permanently exempt from disclosure.

44. The Commissioner has considered these arguments and is of the view that the public would be very much aware that the decision-making process in government is rarely free from difficulty: in reality it would be unusual for a decision to be reached where all the parties concerned agreed with each other. It is only with the benefit of informed discussion and argument that an audit trail can be followed through to a well reasoned decision.

45. The Commissioner has considered the effect that disclosure of the information sought might have on record keeping and is not convinced by the arguments put forward by DTI on this point. He has previously commented on the same issue (DN FS50074589) and the point raised there equally applies in this case, namely that, although openness might have some effect on the way records are kept, ensuring accurate records are kept to meet the public authority's business needs is primarily a management issue. The Tribunal has also rejected such arguments around the detrimental impact on record keeping in cases such as *DfES v ICO & Evening Standard* (EA2006/0006) and *Guardian & Brooke v The Information Commissioner & the BBC* (EA2006/0011 & 0013).

46. In this case, there is a however an additional factor which influences the Commissioner's judgement. He is aware that litigation directly relating to the issue at hand is in train between the complainant and another public authority. This litigation was in prospect or to have been commenced at around the time that the request was made, and subsequently refused, in 2005. The Commissioner is acutely aware of the public interest in allowing individuals to understand decisions that affect them and allowing them to challenge such decisions. The fact that there is ongoing litigation is evidence of the value in releasing the information. However, while the Commissioner recognizes these public interest factors in disclosure of the information, it is clear that there is a public interest in allowing the legal process to continue unprejudiced and the Act is not designed to circumvent other paths to disclosure. In such a case there is a strong public interest in favour of allowing the legal process to run its course which strengthens the public interest in maintaining the exemption.

    In these circumstances this additional factor tips the balance and the Commissioner concludes that the public interest in maintaining the exemption is not outweighed by the public interest in disclosure.

Section 42 legal and professional privilege

47. DTI has applied this exemption in relation to documents B3, B4, B6, B7, and B8. This exemption relates to information in respect of which a claim to legal professional privilege could be maintained. Such information, subject to the operation of the public interest test, is exempt information. The legal professional privilege exemption is a class based exemption which means that it is not necessary to demonstrate that any prejudice may occur to the professional legal adviser/client relationship if information is disclosed. Instead, it is already assumed that the disclosure of information might undermine the relationship of the lawyer and client.

48. The principle of legal professional privilege can be described as a set of rules or principles designed to protect the confidentiality of legal or legally related communications and exchanges between the client and his/her or its lawyers, and exchanges which contain or refer to legal advice which might be imparted to the client. It also includes exchanges between clients and third parties if such communications or exchanges come into being for the purposes of preparing litigation.

49. There are two separate categories of privilege, which are known as advice privilege and litigation privilege. Advice privilege covers communications between a person and his lawyer provided they are confidential and written for the sole or dominant purpose of obtaining legal advice or assistance in relation to rights or obligations.
Litigation privilege covers communications between a person and his lawyer provided they are confidential and written for the sole or dominant purpose under section 42.

50. The Commissioner has considered the requested information and in his view it is clear that it relates to advice privilege. He is satisfied that it was legal advice provided to the public authority by its own lawyers and written for the sole purpose of providing advice in relation to the public authority's duties, rights and obligations. The exemption is therefore engaged.

Public Interest test

51. As this exemption is also a qualified exemption, section 2 of the Act requires the Commissioner to consider whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

52. The public interest in disclosing the requested information lies in creating accountability and transparency in actions and decisions being taken by the public authority. The complainant's view is that a decision was made to try to avoid implementing the Directive in respect of part-time judges and he is seeking the factual basis for that decision. He recognises that communications to and from DTI which are covered by legal professional privilege can be withheld from disclosure.

53. DTI acknowledges that there is a public interest in openness and transparency in the workings of Government but argues that the concept of legal professional privilege reflects the strong public interest in protecting confidentiality of communications between lawyers and clients. It is important for the government to be able to seek legal advice in relation to sensitive or difficult decisions and for such advice to be fully informed and fully reasoned. Without confidentiality clients would fear that anything they say to their lawyers, however sensitive or potentially damaging it might be, could be subsequently revealed. They might therefore be deterred from seeking legal advice at all, or from disclosing all the relevant facts to their lawyers. Equally, in the absence of an expectation of confidentiality, the advice given might not be as full and frank as it ought to be.

54. In its decision in Bellamy v Information Commissioner (appeal no: EA/2005/0023, FS006313) the Information Tribunal stated in paragraph 35 in respect of legal professional privilege that: "*… there is a strong element of public interest inbuilt into the privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt public interest … It may well be that … where the legal advice was stale, issues might arise as to whether or not the public interest favouring disclosure should be given particular weight … Nonetheless, it is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion, save in the most clear case".*

55. It is the Commissioner's view that, in order to facilitate the proper performance of its public functions, it is important for a public authority to be able to receive confidential and candid legal advice and engage in full and frank discussions with its legal adviser. The view expressed by the Tribunal in the Bellamy case makes it clear that very powerful public interest arguments are needed to allow such advice to be released. In the particular circumstances of this matter the Commissioner is satisfied that this is not such a case.

The Decision

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56. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

    (i) The application of sections 35 (1) (b), 36 and 42 to the information requested.

    However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

    (ii) DTI incorrectly applied section 35(1) (a) of the Act.

    (iii) The refusal notice of the 17 May 2005 was issued outside of the 20 working days as required by section 10 of the Act, this is in breach of section 10 (1).

    (iv) Whilst DTI was correct in its application of section 36 of the Act to document B9, it did not do so until after the completion of the refusal notice and the internal review processes. The public authority did not deal with the request for information in accordance with the Act in that it failed to identify section 36 in the refusal notice. This represents a breach of section 17(1) (b).

Information Commissioner's Office

Steps Required

57. The Commissioner requires BERR to provide Mr. O'Brien with a copy of the document reference B2 within 35 days of the date of this Notice.

Right of Appeal

58. Either party has the right to appeal against this Decision Notice to the Information 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

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

Dated the 8th day of January 2008

Signed ………………………………………………..

Richard Thomas
Information Commissioner

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