

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 8 February 2010

Public Authority: The Home Office
Address: Seacole Building
2 Marsham Street
London
SW1P 4DF

Summary

The complainant requested copies of all Authorisations for the power to stop and search issued under the Terrorism Act 2000. During the investigation, the request was refined as being for certain information contained within those Authorisations.

The public authority refused to release any information citing the exemptions at section 23 (Information supplied by or relating to, bodies dealing with security matters), section 24 (National security) and section 31 (Law enforcement). The complainant did not contest any information withheld by virtue of section 23.

The Commissioner's decision is that the exemption at section 24(1) is engaged and that the public interest in maintaining the exemption outweighs the public interest in disclosure. He finds that this exemption applies to all the remaining information sought by the complainant so the exemption at section 31 has not been further considered.

The Commissioner has also identified procedural breaches which are outlined in the Notice below. The complaint is therefore partly upheld.

The Commissioner's role

1. The Commissioner's duty 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.

Background

2. The Terrorism Act 2000 (TA2000) has the following preamble:

“An Act to make provision about terrorism; and to make temporary provision for Northern Ireland about the prosecution and punishment of certain offences, the preservation of peace and the maintenance of order.”

3. The information request centres around the ‘power to stop and search’ which is in part V of the TA2000. The full TA2000 can be found online at: http://www.opsi.gov.uk/Acts/acts2000/ukpga_20000011_en_1. This ‘power’ is enabled by Authorisations obtained under sections 44 and 46 of the TA2000.

4. According to the Home Office website (<http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2008/027-2008/>):

“Authorisations under section 44 of the Terrorism Act 2000 confer extraordinary powers of stop and search. They can be made where expedient for preventing acts of terrorism.

Although initially made by police officers of ACPO rank, they must be confirmed by the Secretary of State. In view of their importance, authorisations are subject to considerable scrutiny before being confirmed by the Secretary of State.

Forces making them should ensure they are able to provide sufficient supporting evidence and justification for the Secretary of State to base his decision on, and to stand up to legal scrutiny. A number of areas should be given particular attention.

These include:

- *Detailed description of reasons for authorising use of the powers, including an assessment of the threat and events or circumstances which are specific to the force seeking the authorisation*
- *Descriptions and justification of the geographical extent of powers*
- *Detailed description of the use of section 44 powers over other stop and search powers*
- *Provision of information on the operational use of the powers and statistical returns*
- *Details of the briefing and training provided to the officers*
- *Details of community impact measures taken”*

5. Templates for requesting these Authorisations were brought in by virtue of Home Office Circular (HOC) 38 of 2004¹ on 1 July 2004; no standard template was in use prior to this date. This template was superseded by a revised template with

¹ <http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2004/038-2004/>

HOC 22 of 2006² on 7 August 2006. A further template was introduced with HOC 27 of 2008³ on 2 December 2008. These templates are all available on the Home Office website.

6. The Authorisation template provided with HOC 38 of 2004 includes the following wording within its 'notes for completion':

"It must be remembered that the S.44 authorisation is a discloseable document and, as such, care must be taken not to include direct reference to matters that could compromise the broader counter-terrorist activities carried out by Special Branches or allied Agencies..."

7. The wording above was highlighted to the Commissioner by the complainant. However, following enquiries with the Home Office, the Commissioner is satisfied that, in the context it has been used, the term 'discloseable' is a reference to being 'discloseable' at court rather than in general terms.
8. Further background information about terrorism, counter-terrorism and related topics can be found on the Home Office website via the following link:
<http://security.homeoffice.gov.uk/>

The request

9. On 14 November 2007 the complainant made the following request:

"Regarding the Terrorism Act 2000 Power to stop and search Section 44 Authorisations and Section 46 Duration of authorisation

Please disclose the following:

- 1) Authorisations which the Secretary of State has been informed of under Section 46 (3)*
 - 2) Authorisations which have not been confirmed by the Secretary of State and which have lapsed under Section 46 (4)*
 - 3) Authorisations modified by the Secretary of State under Section 46 (5)*
 - 4) Authorisations which have been cancelled by the Secretary of State under Section 46 (6)*
 - 5) Authorisations renewed in writing under Section 46 (7)".*
10. On 14 December 2007, having had no acknowledgement, the complainant chased a response. On 17 December 2007 the public authority advised him that it was not yet in a position to provide a response. It stated that it hoped to respond within a month but gave no reason.
11. On 30 January 2008 the complainant again chased a response.

² <http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2006/022-2006/>

³ <http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2008/027-2008/>

12. On 8 February 2008 the public authority issued a refusal notice. It advised the complainant that the information was exempt under section 23(1) (information supplied by or relating to, bodies dealing with security matters), section 24(1) (national security) and section 31(1)(a-c) (law enforcement). It included the statement that:

“Section 44 authorisations include sensitive information, including an ongoing assessment of the terrorist threat, a consideration of the terrorist threat specific to the relevant police district, a consideration of the geographical extent of an authorisation and an assessment of the operational use of the powers. For these reasons an authorisation cannot be provided to members of the public as to do so may lead to the disclosure of intelligence which may jeopardise anti-terrorist operations”.

13. On 11 February 2008 the complainant sought an internal review. He clarified, in response to the extract above, that he: *“did *not* ask for all that background intelligence information”* and also stated:

“That is far in excess of what the Terrorism Act 2000 Section 44 and Section 46 require to be notified to the Secretary of State i.e. essentially only simple duration and geographical location data”.

14. This was acknowledged on 20 February 2008 and an internal review was sent on 7 April 2008. The public authority maintained its previous position.

The investigation

Scope of the case

15. On 10 April 2008 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He complained about the non-release of any information and also commented on the delays in dealing with his request.
16. During the course of the Commissioner's investigation the complainant also explained to the Commissioner that he only required certain parts of the Authorisations. These were described as follows:

“... a list or summary of Authorisations, stating exactly Where and When (Start Time and Start Date) for what Period of Time (typically up to 28 days), each Authorisation was, or is still actually in force.”

“If there is a Map showing the Geographic boundaries of exactly what area each Authorisation covers, especially when it is only for a limited area, such as the cordon around a Political Party Conference, for example, then that would also be acceptable. If the Authorisations use words like the entire Metropolitan Police District' of London, simply in words, then that would be also be ok”.

17. The Commissioner notes that the complainant introduced the wording "*list or summary*" at this point of his investigation. However, as this was not originally put to the public authority the Commissioner has not further considered this wording.
18. The complainant confirmed that he was not interested in any of the "*background intelligence*" or "*tactical operational Police plans*", which he did not believe to be a requirement for an Authorisation under the Terrorism Act.
19. The complainant further clarified that he did not contest withholding of the information by virtue of section 23 so this has not been further considered.
20. During the Commissioner's investigation it also became apparent that there were no "*Authorisations renewed in writing under Section 46(7)*" as all Authorisations are treated as new requests and dealt with accordingly. When this was put to the complainant he agreed to remove this element of his complaint.

Chronology

21. On 30 April 2009 the Commissioner wrote to the complainant to advise him that he had commenced his investigation. He also sought to clarify the extent of the complaint.
22. The complainant responded on the same day. He confirmed the scope of his complaint, as identified above.
23. On 5 May 2009, the Commissioner commenced his investigation with the public authority. He raised various queries regarding its use of exemptions and also asked for a sample of Authorisations falling within each category of those requested by the complainant.
24. On 4 June 2009 the Commissioner chased a response from the public authority. He was advised that the case had only just been allocated to an officer to consider and that the response would therefore be delayed. He was advised that the officer would contact him.
25. On 8 June 2009 the Commissioner again sought an update. He stated that his original 20 working day limit had already expired but he was aware that the case had only been recently passed to the officer. In view of this he was prepared to extend his deadline to 17 June 2009 but, if there was no response by this date, that he may have to issue an Information Notice. This was acknowledged on 9 June 2009.
26. Having had no response the Commissioner issued an Information Notice on 25 June 2009.
27. A response was received from the public authority on 24 July 2009. This did not include a copy of any withheld information as this was considered too sensitive to

send in the post as it had a protective marking rating of 'Secret'⁴. The Commissioner was invited to view this information on site.

28. The response also included a signed assurance from a Deputy Director within the Office for Security and Counter Terrorism, which confirmed that some of the withheld information was either received from, or directly related to, one of the bodies listed in section 23(3) of the Act (see legal annex). The Commissioner has accepted this assurance and is satisfied that the exemption has been properly applied.
29. Having still not viewed any of the withheld information, the Commissioner sought to have any 'Secret' information removed from sample Authorisations and sent to him. This was deemed feasible and the Commissioner was expecting to have the information sent to him. However, on 21 August 2009 the Commissioner was advised that, even with removal of the information relating to section 23, the Authorisations were still deemed to be 'Secret'. He was again invited to view a sample on site.
30. On 22 September 2009 the Commissioner visited the public authority and viewed a sample of the Authorisations. He noted that the documents were all classified as 'Secret'. He further noted that those documents which were selected for him to view all post-dated the request. He therefore asked that earlier documents were retrieved and compared with those he had viewed. These were not available at the time so he asked that samples were retrieved, compared to those currently in use, and the comparison then supplied to him. The public authority agreed to this.
31. On 19 October 2009 the Commissioner chased a response from the public authority. On 21 October 2009 it requested a time extension to the end of the month. The Commissioner agreed to this. On 12 November 2009 the Commissioner again chased a response.
32. On 16 November the public authority provided the information required. It confirmed that it had viewed a range of Authorisations which had been submitted during 2001, 2004 and 2006 and that these all contained similar information to the ones viewed by the Commissioner. The Authorisations were all classified as 'Secret' and included background summaries stating why the Authorisation was required, an outline of the national threat level and a map of the proposed area.

Analysis

Exemptions

Section 24 – national security

33. Section 24(1) states:

⁴ <http://www.cabinetoffice.gov.uk/spf/faqs.aspx>

“Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.”

34. In the case of *Baker v the Information Commissioner and the Cabinet Office* (EA/2006/0045) the Information Tribunal noted that it was unable to find an exhaustive definition of ‘national security’ in either statute or judicial decisions, but it referred to a House of Lords decision (*Secretary of State for the Home Department v Rehman* [2001] UKHL 47; [2003] 1 AC 153) which made a number of observations on the issue:

- ‘national security’ means the security of the United Kingdom and its people;
- the interests of national security are not limited to action by an individual which can be said to be ‘targeted at’ the United Kingdom, its system of government or its people;
- not only military defence, but the protection of democracy and the legal and constitutional systems of the state, are part of national security;
- action against a foreign state may be indirectly capable of affecting the security of the United Kingdom;
- reciprocal cooperation between the United Kingdom and other states in combating international terrorism is capable of promoting the United Kingdom’s national security.

Required to safeguard

35. The Commissioner takes the view that, for exemption to be ‘*required*’, the requested information must relate to national security, and there must be evidence that its disclosure would cause specific and real threats to national security. Furthermore, the Commissioner considers that there must be a pressing need for the information to be exempt.

36. Having considered the close link between information rights and human rights, the Commissioner considers that it is appropriate to consider the case law on Article 8(2) of the European Convention on Human Rights, which states:

“There shall be no interference by a public authority with the exercise of this right except such as...is necessary in a democratic society in the interests of national security...”

37. The European Court of Human Rights⁵ has interpreted ‘*necessary*’ as “*not synonymous with ‘indispensable’, neither has it the flexibility of such expressions as ‘admissible’, ‘ordinary’, ‘useful’, ‘reasonable’ or ‘desirable’*”. Accordingly, in the view of the Commissioner, necessity is less than absolutely essential but more than merely useful.

38. Having considered the withheld information and the public authority’s comments, the Commissioner is satisfied that retention of the information is ‘*required to safeguard*’ national security, since there is a specific and direct application to

⁵ *Sunday Times v UK* [1979] 2 EHRR 245 at para 59

which such information might be put which could potentially be damaging to national security. The information therefore has the necessary quality to fall within the definition of section 24(1).

39. Since section 24 is a qualified exemption it is subject to a public interest test under section (2)(2)(b) of the Act. This favours disclosure unless, *“in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosure of the information”*.

Public interest arguments in favour of disclosing the requested information

40. The public authority confirmed to the complainant that, when considering the public interest factors in favour of disclosure of the information, it had given weight to the general public interest in transparency and openness.

41. It was also of the view that disclosure could provide the public with information about work that the police and other parties carry out to protect the public from acts of terrorism. It accepted that disclosure would provide more information to the public regarding areas of the country thought to be at risk from terrorism, thereby enabling further precautions to be taken as necessary.

42. The complainant has also raised arguments in favour of disclosure. He has argued that:

“... despite the Home Office producing quite a lot of statistics, about the tens of thousands of such Terrorism Act 2000 Section 44 Stops and Searches, even broken down by apparent age and racial group, they seem to want to keep even the Geographical Locations and the date and time Durations of these Authorisations secret i.e. keeping secret even the fact that a particular geographical area has had the normal rule of law temporarily changed.”

43. He believes that, were the Authorisations publicly known, this would have the positive impacts cited below:

“Less Police time would be wasted at such Terrorism Act 2000 Section 44 checkpoints, if normal, law abiding members of the public, were aware of the geographical location and durations of such Authorisations, so that they could avoid transporting potentially suspicious, but actually innocent items, such as, paint ball guns or agricultural fertiliser etc.”

“There have been cases where jumped up private sector security guards or even Police Community Support Officers (who are not Constables in Uniform), have pretended to have powers under Terrorism Act 2000 Section 44 which they do not legally possess (or where they have been genuinely confused by the complexity of the vast array of legislation). Greater public awareness of where and when such temporary extraordinary Terrorism Act 2000 Section 44 Authorisations actually apply, would help to prevent illegal abuses of power.”

*“It would *strengthen* the deterrent effect of the powers if the general public was aware of the fact that a Section 44 authorisation was in force at a particular time, in a particular geographical area - the public could then be more vigilant themselves.*

If normal members of the public knew the geographical details of such Authorisations, ideally via a map published by on the Home Office website, then they could avoid bringing potentially suspicious, but innocent, items into the area e.g. legally held shotguns or paintball or BB guns etc. They could inform the Police ahead of time, if they are transporting potentially dangerous materials e.g. ammonium nitrate based fertiliser. This would result in more efficient use of Police Constables on the ground, with fewer false alarms, and less harassment of the innocent public.”

“Transparency in publishing these Authorisations would help the Police on the ground who have to enforce them, as well as the public”.

Public interest arguments in favour of maintaining the exemption

44. The public authority advised the complainant that:

“Section 44 authorisations include sensitive information, including an ongoing assessment of the terrorist threat, a consideration of the terrorist threat specific to the relevant police district, a consideration of the geographical extent of an authorisation and an assessment of the operational use of the powers. For these reasons an authorisation cannot be provided to members of the public as to do so may lead to the disclosure of intelligence which may jeopardise anti-terrorist operations”.

45. It further stated that:

“Stop and search under section 44 of the Terrorism Act 2000 is an important tool in the ongoing fight against terrorism. As part of a structured anti-terrorist strategy, the powers help to deter terrorist activity by creating a hostile environment for would-be terrorists to operate in. The purpose of the policy is to act as a deterrent to terrorists. Therefore even revealing the geographic area that authorisations are in place would limit the effect of these powers as a counter terrorism measure. It would also prejudice law enforcement because knowledge of where authorisations are in place could be considered beneficial to individuals attempting to avoid detection when planning or carrying out an act of terrorism”.

46. An argument was advanced that the systematic release of all section 44 notices, as requested, would enable terrorists to build up a picture of areas likely to be subject to Authorisations.

47. The public authority also believed that releasing information regarding areas subject to section 44 Authorisations would inform terrorists that a particular area was subject to higher (or lesser) security than was perhaps ‘normal’ for that area. This applied to those areas which may be subject to ‘regular’ Authorisations as

well as those which may only be subject to 'one-off' Authorisations, and would enable terrorist groups to direct their activities to areas where they would be less likely to be apprehended.

48. It was further of the opinion that release of the Authorisation details requested would enable individuals or groups to identify whether or not their activities had come to the notice of the authorities. This therefore had the potential to jeopardise ongoing investigations.
49. The public authority also advised the Commissioner that it believes it important that authorities are able to mount operations to prevent acts of terrorism taking place and to protect the general public. It said that if details of previous or current operations were released it could give terrorists knowledge of techniques being used, and enable them to identify whether their activities have come to the notice of the authorities, thereby damaging the ability to investigate terrorist offences.
50. The following statement was also made to the Commissioner:

“Where possible, the Home Office and bodies dealing with counter terrorism explain to the public threats and preventative measures. The Home Office considers that release of this information would provide terrorists seeking to plan or carry out an attack with detailed tactical and operational knowledge which would make an attack easier, or increase its chances of success”.

Balance of the public interest arguments

51. The Commissioner accepts that there is a general public interest in disclosure and he therefore gives this argument some weight. Disclosure would provide new information to the public, of which very little is currently known, and could therefore further public debate regarding the use of Authorisations under the TA2000.
52. The Commissioner also accepts the view that disclosure would better inform the public by providing information which would indicate those areas which were thought to be most at risk from acts of terrorism at any given time. The public would therefore be aware of those areas of the country thought to be at risk from terrorism and would be able to take further precautions as necessary. He further understands the complainant's view that, if the public was aware that an authorisation was active, it could ensure that it did not waste valuable police time by transporting 'suspicious' items and that it could also be more vigilant which may also assist the police.
53. The Commissioner also believes that there is an accountability issue regarding public scrutiny of the police and security bodies in subjecting areas to special measures impinging on normal civil and legal rights. Disclosure would assist in such scrutiny.
54. The Commissioner further notes the complainant's view that personnel without the appropriate authority have incorrectly claimed they have the power to act

under the authority of the TA2000, either deliberately or unknowingly. The complainant believes that if there were greater public awareness as to where and when Authorisations were in place then this abuse of power could be prevented. However, the Commissioner does not accept that this argument carries much weight. The appropriate powers of authority are laid down within the TA2000 itself and the Commissioner is not convinced that releasing the information requested would prevent such alleged actions. The Commissioner believes that if there is an abuse of power then this may indicate a training need that the police or the public authority need to deal with or it is an issue for the courts to consider in the event of a legal challenge.

55. The Commissioner also understands that there is much controversy surrounding the policing powers under the TA2000 and that there is a general public interest in better understanding the purposes to which those powers are put. However, he also notes that the complainant has requested all Authorisations since the TA2000 came into force rather than just a sample from a set time period, a specific purpose or for a particular geographical area.
56. Whilst he can understand the arguments in favour of disclosing the requested information, the Commissioner notes that there are very strong countervailing arguments to such disclosure.
57. Although providing details of when and where Authorisations are and have been active could assist the public's behaviour, this knowledge would also obviously assist the terrorist to at least the same extent. The Commissioner believes that such a wide-ranging disclosure of information would give an historic picture of events and it is his view that, were a terrorist to be aware of the fact that an area was currently covered by an authorisation, or even very likely to be based on historical data, then the terrorist too could be more vigilant and take the same steps that the complainant suggests the law-abiding public could take. The Commissioner believes that having knowledge of the times, dates and maps of all 'active' areas would be of considerable benefit to a terrorist or group of terrorists who wished their activities to evade detection. Such activists would be more likely to move elsewhere and any potential gain which the public would have had by knowing about the authorisation would then be lost, as too would any advantage that the police had.
58. The Commissioner notes that the complainant acknowledges there is 'sensitive' information contained within the Authorisations sought, which is evidenced by him stating that he does not wish to be given any "*background intelligence*" or "*tactical operational Police plans*". Nevertheless, the complainant still requires sight of the dates, times and geographic locations of all Authorisations issued since the introduction of the TA2000. Whilst the complainant may not therefore accept that dates, times and geographic locations are actually "*background intelligence*" or "*tactical operational Police plans*" the Commissioner does not agree. The regularity and extent of Authorisations could readily be used by terrorists to ascertain the likelihood of their activities coming to the attention of the police or anti-terrorist agencies. If, for example, an authorisation is granted in an area which has not been covered by one before, then a terrorist acting within that area is likely to become suspicious that he is being surveilled and is likely to take

appropriate action to avoid detection. Conversely, revealing that an area which had been previously covered by an authorisation was no longer under consideration could again potentially provide a 'tip-off' to a terrorist that it was now a safer environment to be operating in. And, knowing that somewhere seems to be regularly subject to authorisation may make a terrorist select it as a suitable area in which to operate as they may well believe that resources are already dedicated to the surveillance of others in that area.

59. As cited in paragraph 34 above, "...*'national security' means the security of the United Kingdom and its people*". The Commissioner is of the opinion that releasing the requested information would cause specific and real threats to national security. He believes that the information could be used by terrorists to support and influence their activity. He therefore believes that any advantages gained by further informing the public would be significantly outweighed by the factors for protecting the public by maintaining the exemption. The complaint is therefore not upheld.
60. As the Commissioner finds that all of the remaining requested information (to which section 23 does not apply) is exempt by virtue of section 24(1) he has not gone on to consider the exemption at section 31(1)(a), (b) and (c).

Procedural Requirements

Section 1(1) and 10(1)

61. 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".

62. Section 10(1) provides that-

'... 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.'

63. The information request in this case was made on 14 November 2007. The public authority failed to comply with section 1(1) until 8 February 2008. In failing to provide a response compliant with section 1(1) within 20 working days of receipt of the request, the public authority breached section 10(1).

Section 17(1)

64. Section 17(1) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that

information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,*
- (b) specifies the exemption in question, and*
- (c) states (if that would not otherwise be apparent) why the exemption applies.”*

65. In this case the public authority received the request on 14 November 2007 and failed to provide a response until 8 February 2008. The 58 working days taken to issue a refusal notice exceeds the statutory deadline of twenty working days. The Commissioner therefore finds that, in exceeding this statutory time limit, the public authority breached section 17(1) of the Act.

The decision

66. 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:
- the requested information was properly withheld under the exemption at section 24(1) of the Act.
67. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:
- in failing to provide a response compliant with section 1(1)(a) within 20 working days of receipt of the request, the public authority breached section 10(1);
 - in exceeding the statutory time limit for providing a response the public authority breached section 17(1).

Steps required

68. The Commissioner requires no steps to be taken.

Other matters

69. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern.
70. The public authority advised the complainant at refusal stage that the Authorisations:

“... include sensitive information, including an ongoing assessment of the terrorist threat, a consideration of the terrorist threat specific to the relevant police district, a consideration of the geographical extent of an

authorisation and an assessment of the operational use of the powers”.

71. The complainant responded by stating that:

*“I did *not* ask for all that background intelligence information !!”, and*

“That is far in excess of what the Terrorism Act 2000 Section 44 and Section 46 require to be notified to the Secretary of State i.e essentially only simple duration and geographical location data”.

72. Whilst the complainant may have a view that the level of detail that is held within the requests is not actually necessary under the legislation this is not an issue that the Commissioner is able to pass comment on. However, having viewed a sample, the Commissioner does concur with the public authority’s position that the requests do contain the information stated.

73. The complainant has also stated that:

“If there is an active investigation of terrorist suspects, then there are plenty of existing Police powers to stop and search people, backed up by the use of deadly force if necessary, but that implies that there is some sort of Reasonable Suspicion, which renders the Terrorism Act 2000 Section 44 powers unnecessary”.

74. Again, the Commissioner is not in a position to consider the merits of the Terrorism Act over and above existing police powers as the appropriate legislation to be used.

Information Notice

75. During the course of his investigation, the Commissioner has encountered considerable delay on account of the Home Office’s reluctance to meet the timescales for response set out in his letters. The delays were such that the Commissioner found it necessary to issue an Information Notice in order to obtain details relevant to his investigation.

76. Accordingly, the Commissioner does not consider the Home Office’s approach to this case to be particularly co-operative, or within the spirit of the Act. As such he will be monitoring the authority’s future engagement with the ICO and would expect to see improvements in this regard.

Right of Appeal

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

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

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

If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

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 February 2010

Signed

**Graham Smith
Deputy Commissioner**

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SK9 5AF**