

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 31 August 2010

Public Authority: Independent Police Complaints Commission
Address: 90 High Holborn
London
WC1V 6BH

Summary

The complainant requested information relating to a new IT system procured by the public authority. The public authority failed to respond to the request within 20 working days of receipt. The conclusion of the Commissioner is that, in failing to respond to the request within 20 working days of receipt, the public authority did not comply with the requirements of sections 10(1), 17(1) and 17(5).

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.

The Request

2. The following information request was made on 21 October 2009:

"1. All data relating to the failings or shortcomings of the current / former system(s) that has resulted in the need for new software, to include the name of the software and the supplier.

2. A copy of the tender process leading to the appointment of Equiniti ICS.

3. The submissions from those submitting the tender process.

4. The reports / reviews undertaken to confirm that there existed no conflict of interest with or financial benefit to any party associated with the IPCC.

5. The specification of the new system to be supplied by Equiniti ICS.

6. The total cost of the system to the IPCC and a breakdown of the costs; development, implementation, training etc."

3. The complainant did not receive a response to this request within 20 working days of its receipt by the public authority and contacted the public authority again on several occasions to chase the response. Following this and following the initial intervention of the Commissioner's office, the public authority responded substantively on 15 February 2010. Some of the information requested was disclosed. The remainder was withheld under either section 12(1) as it was believed that the cost of compliance with those parts of the request would exceed the cost limit of £450, or under the exemption provided by section 43(2) (prejudice to commercial interests).

The Investigation

Scope of the case

4. The complainant contacted the Commissioner's office initially on 12 January 2010 in connection with the failure of the public authority to provide a substantive response to the request by that time. The Commissioner's office intervened at that point to ensure that the public authority provided a substantive response to the request.
5. Following the substantive response to the request, the complainant contacted the Commissioner's office again and confirmed that he wished to pursue his complaint about the delay in responding to his request. During an exchange of correspondence between the complainant and the Commissioner's office the complainant agreed that the scope of this case would cover only the delay in responding to his request.

Analysis

Sections 10 and 17

6. The request was made by email on 21 October 2009. The public authority responded to this on 15 February 2010, well outside 20 working days from receipt. In relation to the information that was disclosed in response to the request, the public authority failed to comply with the requirement of section 10(1) in not responding to the request within 20 working days of receipt.
7. In relation to those parts of the request that were refused, the public authority failed to comply with the requirements of section 17(5) when citing section 12(1) and section 17(1) when citing section 43(2) in not responding to the request within 20 working days of receipt.

The Decision

8. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act in that it did not respond within 20 working days of receipt of the request and in so doing failed to comply with the requirements of sections 10(1), 17(1) and 17(5).

Right of Appeal

9. 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.

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

Dated the 31st day of August 2010

Signed

**Gerrard Tracey
Principal Policy Adviser**

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

Legal Annex

Section 10

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”

Section 12

Section 12(1) provides that –

“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.”

Section 17

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.”

Section 17(3) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming -

- (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny

outweighs the public interest in disclosing whether the authority holds the information, or

(b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

Section 17(5) provides that –

“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.”

Section 43

Section 43(2) provides that –

“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”