

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 26 February 2013

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

Decision (including any steps ordered)

1. The complainant requested information to show how the Home Office handled a previous information request. The Home Office provided some information but withheld other information under sections 36(2)(b)(ii), 36(2)(c), 40(1), 40(2) and 42 of the FOIA. The Commissioner's decision is that the Home Office was entitled to rely on the exemptions at sections 36(2)(b)(ii), 40(1), 40(2) and 42 of the FOIA in respect of most of the withheld information. However the Commissioner requires that some information be provided to the complainant.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Disclose the information identified in the attached confidential schedule.
3. The public authority must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Background

4. The complainant in this case made a previous information request (the original request) to the Home Office on 11 October 2009. The Home Office responded to the request of 11 October 2009 on 22 October 2010. The Home Office provided the complainant with all the personal

data it considered he was entitled to receive under the DPA. The Home Office also provided some of the requested information under the FOIA.

5. The complainant also submitted a complaint to the Commissioner in respect of a similar request he had made to another public authority; the Commissioner issued a decision notice on 16 January 2012¹.

Request and response

6. On 10 January 2011, the complainant requested the following information from the Home Office:

"I formally request a copy of all letters, notes, memoranda, emails, faxes, or other communications, exchanged between any person in your Information Access Team, or your supervisory Home Office Managers; and any person working for, or connected with, (a) HMIC (b) Senior Appointments Panel, or (c) the wider Home Office, since 11th October 2009 which has related, in any way, to my (1) Freedom of Information or (2) Subject Access request, or (3) mentions myself, or a combination of these matters.

Also I seek copies of any such (of all the above types) of communication between any member of your team, and any Home Office supervisory Manager that relates to: my (1) Freedom of Information, (2) Subject Access request, or (3) mentions myself, or a combination of these matters."

7. The requested information in this case comprises internal and external correspondence on the subject of how the Home Office should respond to the original request. The Commissioner considers this a "meta request": ie, a request about the handling of a previous request. As the meta request focused on a previous request made by the complainant, some of the requested information was the complainant's personal data. Consequently the Home Office considered the meta request under the FOIA and the Data Protection Act 1998 (the DPA).
8. The Home Office responded to the meta request on 11 April 2011 and provided some of the requested information. The Home Office stated that it was withholding other information it held under sections 36(2)(b)(i), 36(2)(c), 40(2) and 42(1) of the FOIA. The Home Office also advised that information which was the complainant's personal data was exempt under section 40(1) of the FOIA. The Home Office explained that it would consider this information separately under the DPA.

¹ Case reference FS50402861

9. Following an internal review the Home Office wrote to the complainant on 4 August 2011. It stated that the internal review concluded that the Home Office had correctly applied the exemptions cited to the requested information.

Scope of the case

10. The complainant contacted the Commissioner on 1 February 2012 to complain about the way his request for information had been handled. The complainant was concerned that certain named parties had sought to withhold information that he was entitled to receive.
11. The Commissioner noted that the Home Office had recognised that some of the requested information was the complainant's personal data. Personal data of the applicant is exempt under section 40(1) of the FOIA as it falls to be considered as a subject access request under section 7 of the DPA. The Commissioner further noted that the Home Office had agreed to consider the complainant's personal data under the DPA, but had not corresponded further with the complainant on this issue since its letter of 11 April 2011.
12. The Home Office provided the complainant with the personal data it considered he was entitled to receive under the DPA on 13 June 2012. The Commissioner has conducted an assessment under section 42 of the DPA into the Home Office's compliance with the data protection element of the complainant's request. The assessment does not form part of this Decision Notice because an assessment under section 42 of the DPA is a separate legal process from a decision made under section 50 of the FOIA.
13. In light of the above the Commissioner has considered all of the relevant information held by the Home Office. He has first considered whether any of the outstanding withheld information is personal data, and therefore exempt from disclosure under section 40(1) of the FOIA although potentially accessible under the DPA. He has then gone on to consider whether the Home Office was entitled to rely on the exemptions at sections 36, 40(2) and 42 of the FOIA in relation to the remaining withheld information.

Reasons for decision

Section 40(1)

14. Section 40(1) of the FOIA states that information which is the personal data of the requester is exempt from disclosure under the FOIA. This is because the DPA provides a right of access to information by relevant individuals, while the FOIA provides for disclosure of information into the public domain. "Personal data" is defined at section 1(1) of the DPA as data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.
15. Having inspected the withheld information in this case the Commissioner notes that some of the information withheld under section 36 is in fact the complainant's personal data, and therefore exempt under section 40(1). Some of this information has been provided to the complainant under the DPA. The Commissioner has considered this issue further in the assessment he carried out under section 42 of the DPA.
16. The Commissioner is of the view that section 40(1) applies to some withheld information not identified by the Home Office as being the complainant's personal data. The Commissioner has listed this information in a confidential schedule to this decision notice.

Section 40(2)

17. Section 40(2) of the FOIA states that the personal data of a third party is exempt from disclosure if to do so would contravene any of the data protection principles or section 10 of the DPA. As mentioned above the definition of "personal data" is provided in section 1(1) of the DPA.
18. The Home Office withheld the names and job titles of staff under section 40(2) of the FOIA. The Commissioner is satisfied that the names and job titles are the personal information of the respective individuals, and this has not been challenged by the complainant.

Would disclosure of the withheld information breach any of the data protection principles?

19. The Home Office argued that disclosure of the withheld information would breach the first data protection principle in that it would be unfair to the individuals concerned.

The first data protection principle

20. The first data protection principle has two main components. They are:

- the requirement to process all personal data fairly and lawfully; and
- the requirement to satisfy at least one DPA Schedule 2 condition for the processing of all personal data.

21. Both requirements must be satisfied to ensure compliance with the first data protection principle. If even one requirement cannot be satisfied, processing will not be in accordance with the first data protection principle. The Commissioner's general approach to cases involving personal data is to consider the fairness element first. If the Commissioner finds that disclosure would be fair he will then move on to consider the other elements of the first data protection principle.

Would disclosure of the information be fair?

22. In assessing fairness, the Commissioner has considered the reasonable expectations of the individuals concerned, the nature of those expectations and the consequences of disclosure to the individual. He has then balanced these against the general principles of accountability, transparency and legitimate public interest in disclosure.

23. The Home Office confirmed to the Commissioner that none of the individuals had provided consent to the release of their personal data. The Home Office argued that the majority of the staff mentioned in the information were at a level where they would not reasonably have had an expectation that their names would be released.

24. The Home Office argued further that staff who were at a grade where they may have had a reasonable expectation that their names would be released but they only had decision making powers with regard to request handling. The Home Office indicated that the complainant's wider dispute did not involve these individuals; therefore they should not be identified in a way that may lead to them being perceived as responsible for issues outside their roles.

25. As indicated above the next step is to balance the legitimate interests of the public against any unwarranted prejudice to the rights and freedoms or legitimate interests of the data subject. As explained in the Commissioner's guidance, "Requests for personal data about public sector employees", individual private interests are only relevant to the extent that they reflect a wider public interest.

26. The complainant argued that there was a legitimate public interest in the public being informed as to how his request was handled,

particularly as he suspected certain parties may have disproportionately influenced the outcome.

27. The Home Office argued that the disclosure of the personal data of the individuals included in a number of emails or letters would add nothing to any public interest arguments being suggested by the complainant in his arguments that information should be released.

Conclusion

28. The Commissioner is of the view that, generally, individuals who are employed by public authorities should expect that some information relating to the work that they carry out will be made publicly available. However, the Commissioner considers the seniority of the individuals, and their level of authority with regard to decision making, to be highly relevant when deciding whether it is fair to disclose information that identifies those individuals.
29. In this case the Commissioner accepts that the more junior staff would not expect their names to be disclosed. The Commissioner agrees that disclosure of their names and job titles would be unfair in that it would publicly link them with an issue over which they had little or no decision making authority. The Commissioner is of the view that the more senior individuals should have expected that their names and job titles may be disclosed into the public domain.
30. The Commissioner also considers that there is a general public interest in knowing how information requests are handled. However in this case the Commissioner is not satisfied that there is a necessity for the names and job titles of individuals to be disclosed. Rather, the Commissioner is of the view that the information already disclosed by the Home Office, along with the information he considers should be disclosed as outlined in the section 36 analysis below, is sufficient to meet the legitimate public interest in knowing how a particular information request was handled. In reaching this conclusion, the Commissioner wishes to note that he is not aware of any evidence that supports the complainant's suspicions mentioned in paragraph 26 above. In his view disclosure of the names and job titles would be unfair and constitute an unwarranted interference with the rights of the individuals concerned. Therefore disclosure would breach the first data protection principle.
31. In light of the above the Commissioner finds that the Home Office was entitled to withhold the names and job titles of the individuals recorded in the disputed information.

Sections 36(2)(b)(i) and 36(2)(c)

32. Section 36(2)(b)(i) provides an exemption where disclosure would, or would be likely to, inhibit the free and frank provision of advice. Section 36(2)(c) provides an exemption where disclosure would, or would be likely to, prejudice the effective conduct of public affairs in a manner other than that specified in section 36(2)(a) or (b).
33. Section 36 can only be engaged according to the reasonable opinion of a qualified person as described at section 36(5) of the FOIA. Section 36(5)(a) provides that the qualified person for a government department in the charge of a Minister of the Crown, is any Minister of the Crown. In this case the Home Office has stated that an opinion was given by the Minister of State for policing and criminal justice, Mr Nick Herbert MP. The Commissioner accepts, therefore, that the opinion of an authorised qualified person was sought in this case.
34. The Home Office advised that it provided a submission to the qualified person dated 14 March 2011, which included a sample of the requested information and a proposed response to the complainant. The qualified person responded to the submission on 11 April 2011 and agreed that the proposed response be issued.
35. In considering whether the qualified person's opinion was reasonable the Commissioner has taken into account the explanatory information provided with the submission to the qualified person, and the requested information itself. In addition, the Commissioner notes that the qualified person decided to inspect all the requested information before forming his opinion. The Commissioner is therefore satisfied that the qualified person was provided with sufficient information in order to form a reasonable opinion.
36. The Home Office did not distinguish between section 36(2)(b)(i) and section 36(2)(c) in its arguments. However each limb of section 36 provides a distinct exemption and therefore the Commissioner has considered each limb separately.

Section 36(2)(b)(i): free and frank provision of advice

37. The submission to the qualified person explained that, in order to respond to the complainant's information request of 11 October 2010, it was necessary to consult with a number of internal and external stakeholders.
38. The submission indicated that the Home Office was reliant on the voluntary co-operation of stakeholders with relevant experience and expertise, which was essential in order to ensure that the Home Office reached an informed and balanced view as to how to respond to such

requests. In this case the stakeholders consulted had a unique understanding of the background issues to the request, and it was considered important that the Home Office take this experience into account when making decisions about disclosure of information. The submission stated that such stakeholders would be less willing to offer advice and opinion in the future if they thought the information they provided would be made public.

39. There is no statutory obligation on public authorities to consult with other authorities or organisations that might be affected by disclosure, and equally there is no statutory obligation on stakeholders to provide their views or offer advice. The submission maintained that effective working relationships were based on an expectation that correspondence would remain private unless there was a strong reason to disclose it to the public. The submission indicated that there was no sufficiently strong reason in this case.
40. In light of the above the Commissioner accepts that section 36(2)(b)(i) was an appropriate limb of the exemption to consider in this case. The requested information did contain frank advice on how to handle the original request; therefore the Commissioner considers it reasonable for the qualified person to apply this limb of the exemption to the requested information.
41. The submission to the qualified person also advised that the qualified person was required to consider the degree of prejudice or inhibition: either "would" occur or "would be likely" to occur. The submission suggested that inhibition "would" occur if the information were to be disclosed, and the Home Office advised the Commissioner that it understood the qualified person to have agreed the higher likelihood of prejudice. The Commissioner accepts that that the opinion given by the qualified person was a reasonable one and has taken into account the greater likelihood of prejudice when balancing the public interest in maintaining the exemption. As the Commissioner is satisfied that the exemption at section 36(2)(b)(i) is engaged, he has gone on to consider the public interest in relation to this exemption.

Public interest arguments in favour of disclosure

42. The Home Office recognised that disclosure of the withheld information would inform the public as to the way the Home Office considered the original request. It would thus facilitate informed debate, and could increase public confidence in the FOIA as a robust public access regime.
43. The Home Office also considered that disclosure would allay any fears that there had been any move to misrepresent or withhold information which the complainant was entitled to receive in response to the original

request. This would reassure the complainant (and consequently the public) that the Home Office had acted correctly, and would promote transparency and accountability around decision making.

44. The complainant expressed the view to the Commissioner that third parties may have disproportionately influenced the Home Office's handling of the original request. The complainant argued that there was a strong public interest in disclosing the withheld information, so that the public can be fully informed as to how the Home Office decided how to respond to the request. The Commissioner understands the complainant's point of view in light of the substantial time taken to respond to the original request. Disclosure of the withheld information would reveal the chronology of the handling of the request, and in doing so would explain why it took so long to be answered.

Public interest arguments in favour of maintaining the exemption

45. The Home Office was of the view that the public interest in favour of maintaining the exemption turned on the risk that disclosure of the withheld information would inhibit the Home Office's ability to discharge its obligations under the FOIA. The Home Office argued that there was a strong public interest in protecting the principle that private space is sometimes needed in which to consider the respective merits of competing courses of action. The Home Office further argued that this would be particularly relevant with regard to answering information requests, where decisions need to be made about to disclosure of information into the public domain.
46. The Commissioner considers that this is the "safe space argument". The safe space argument is based on the premise that it is in the public interest to be able to have a full and open debate away from external scrutiny so as to enable officials and/or Ministers to reach an agreed position. The Commissioner considers that once an issue has been successfully determined and a position agreed, then "safe space" arguments will no longer be relevant in most cases.
47. In this case the original request had been answered by the time the meta request was received. Therefore, although the Commissioner would accept that safe space may have been necessary to consider the original request, in the circumstances of this case he does not consider it to be relevant.
48. The Home Office also pointed out that the original request concerned information that related not only to the complainant but a number of other individuals as well. Therefore the Home Office was required to carefully consider and discuss the potential impact that any disclosure might have for these individuals. The Home Office argued that the ability

to discuss such matters in a free and frank manner, without fear of untoward disclosure, is integral to the efficient processing of information requests.

49. The Commissioner considers this the “chilling effect” argument. A chilling effect argument is one which is directly concerned with the potential loss of frankness and candour in opinions or advice which, as a result, would lead to poorer quality advice and less well formulated decisions.
50. Having inspected the withheld information the Commissioner notes that it does contain free and frank comments. These include comments and input received by Home Office officials, as well as information generated by the Home Office officials themselves. The Commissioner is satisfied that the chilling effect is a relevant argument in this case.
51. Finally, the Home Office argued that the information it had disclosed in response to the meta request was sufficient to provide a detailed account of the handling of the original request. The Home Office did not believe that the public interest in disclosure of the remaining material was of a sufficient degree to favour disclosure of that information.

Balance of the public interest arguments

52. The Commissioner considers that the information withheld under section 36(2)(b)(ii) can be broadly categorised as follows:
 - Information relating to the administration of the request; and
 - Information containing free and frank comments by made by Home Office officials and stakeholders.
53. The Commissioner is of the view that the first category of information is innocuous. In his view any chilling effect arising from the disclosure of information about the administrative handling of the request, chasing up responses, etc, is not likely to be severe or extensive. Therefore the Commissioner finds that information in the first category above should be disclosed, as the public interest in maintaining the exemption does not outweigh the public interest in disclosure. The Commissioner has identified the information to be disclosed on the confidential schedule to this notice.
54. The Commissioner considers that the second category of information is more sensitive, and therefore requires protection from disclosure. This information could not be said to be innocuous; rather, it does reflect free, frank and specific comments about a relatively sensitive and high profile issue.

55. The nature and content of the second category of information led the Commissioner to accept that its disclosure would indeed dissuade officials and/or stakeholders from providing uninhibited input into the handling of information requests. The Commissioner further acknowledges that if such individuals were dissuaded in this way, the effects would be reasonably severe and extensive. In reaching this view the Commissioner has taken into account the number of requests received by the Home Office each year, the fact that many require internal and external consultation with stakeholders as well as the benefit of consulting those with relevant knowledge of the requested information when reaching decisions about how to respond under the FOIA.
56. The Commissioner also considers the timing of the meta request to be relevant. The Home Office responded to the original request on 22 October 2010, and the complainant submitted the meta request on 10 January 2011. This meant that a relatively short period elapsed between the handling of the original request, and the subsequent request for information about the decision making process. Comments and opinions expressed would still be quite "fresh" at this time, and their disclosure into the public domain would therefore have a more pronounced impact on relationships between the Home office and its stakeholders.
57. The Commissioner notes that the Information Tribunal has commented on "chilling effect" arguments in a number of cases. The Tribunal has been reluctant to attach significant weight to such arguments in the absence of evidence that all the circumstances of the case in question have been considered. The Commissioner believes that, in this case, arguments surrounding the dissuasion of officials from providing opinions are to a certain extent mitigated because stakeholders would want to influence whether information is released. The Commissioner thus accepts that such stakeholders would not be lightly dissuaded from providing their views. However, in this case, the Commissioner considers that the content of the withheld information and the circumstances of the meta request lead to the conclusion that stakeholders would be less free and frank in their input and that the lack of candour would have a relatively severe and extensive negative impact on responses to requests under the FOIA. Therefore he is satisfied that the chilling effect argument deserves considerable weight.
58. The Commissioner has also borne in mind the arguments put forward by the complainant. The complainant has suggested that some stakeholders may have disproportionately influenced the Home Office's handling of the original request. If this were the case then the Commissioner would consider it a strong argument in favour of disclosing the withheld information. However in this case the

Commissioner has seen no evidence that any party acted inappropriately, or that the Home Office was unduly influenced to make a particular decision. The Commissioner agrees that the original request was not answered as promptly as it should have been, but the withheld information reflects genuine discussion and consideration of the options available.

59. For the reasons set out above the Commissioner is of the view that, although the exemption at section 36(2)(b)(i) is engaged in relation to all the relevant information, the public interest in maintaining the exemption did outweigh the public interest in disclosing the information that falls under the second category as detailed at paragraph 53 above.

Section 36(2)(c)

60. Given the Commissioner's findings that the first category of information should not be withheld under section 36(2)(b)(i) the Commissioner has gone on to consider whether it should be withheld under section 36(2)(c).
61. The submission to the qualified person suggested that the inhibiting effect described in section 36(2)(b)(i) would have a corresponding impact on the Home Office's ability to respond to information requests. The submission described this as an outcome which would be prejudicial to the effective conduct of public affairs.
62. The Commissioner has considered the arguments put forward by the Home Office, but is of the view that all the arguments relate to the exemption at section 36(2)(b)(i). The exemption at section 36(2)(c) is designed to cover prejudice to the effective conduct of public affairs that does not fall under the other subsections of the exemption.
63. The Commissioner noted at paragraph 24 above that the Home Office had not distinguished between the exemptions at section 36(2)(b)(i) and section 36(2)(c). In the absence of clear arguments that identify an alternative prejudice to that described in section 36(2)(b)(i) the Commissioner finds that the qualified person's opinion in relation to section 36(2)(c) was not reasonable and therefore that exemption was not engaged. In view of this conclusion it has not been necessary to go on to consider the public interest test in this regard.

Section 42(1)

64. Section 42(1) of the FOIA provides that information is exempt from disclosure if it is protected by legal professional privilege and the claim to privilege could be maintained in legal proceedings.

65. There are two categories of legal professional privilege; advice privilege where no litigation is contemplated or pending and litigation privilege where litigation is contemplated or pending. In this case the Home Office considered the information in question to attract advice privilege. Advice privilege covers confidential communications between a client and their lawyer, made for the dominant (main) purpose of seeking or giving legal advice.
66. Having inspecting the withheld information the Commissioner is satisfied that the material the Home Office identified as being subject to legal professional privilege meets the following criteria for engaging the exemption at section 42:
- The information is confidential;
 - The communication was between a client (the Home Office) and its professional legal adviser acting in their professional capacity; and
 - The information was created for the purposes of obtaining legal advice or assistance in relation to rights and obligations.
67. The Commissioner has seen no evidence to suggest that the Home Office has waived privilege in relation to the withheld information. The Commissioner is thus satisfied that the exemption at section 42(1) was correctly engaged, and he has gone on to consider the public interest.

Public interest test

68. The Commissioner is guided by the Information Tribunal's decision in *Bellamy v Information Commissioner (EA/2005/0023)* in which it was stated:

"...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 interest...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..."

69. The Commissioner considers that whilst any arguments in favour of disclosing the requested information must be strong, they need not be exceptional.

Public interest arguments in favour of disclosure

70. The Home Office acknowledged the general public interest in public authorities being accountable for the quality of their decision making,

and that ensuring that decisions have been made on the basis of good quality legal advice is part of that accountability.

71. In this instance the Home Office accepted that disclosure of the withheld information would allow the public to see how the original request was handled, and would assure the public that that Home Office is mindful of the legal implications of the FOIA.

Public interest arguments in favour of maintaining the exemption

72. The Home Office argued that the principle of legal professional privilege recognises the fact that there is a significant public interest in a person being able to consult their lawyer in confidence. In this respect the Home Office was of the view that the disclosure of legal advice would run contrary to the confidential relationship between lawyer and client.
73. The Home Office concluded that the public interest in disclosing the withheld information was substantially weaker than the public interest in maintaining the exemption and therefore the integrity and confidentiality of the principle of legal professional privilege.
74. The Commissioner also notes that the legal advice is fairly recent. This adds some weight to the public interest arguments in favour of maintaining the exemption.

Balance of the public interest

75. The Commissioner considers that there is a public interest in ensuring openness, transparency and accountability in how the Home Office handles information requests. Disclosure of the withheld information would improve the public's understanding of the decision making process and how it was applied in this case. The Commissioner has attributed some weight to these arguments in this case. However the weight attributed is not significant given the limited number of people directly affected by the specific information sought, the fact that there is no evidence that the advice has been misrepresented or that parts of it have been selectively disclosed. Moreover, as indicated previously, the Commissioner has noted that absence of any evidence of wrongdoing by the Home Office or any other party, which in his view also limits the weight of the public interest arguments in favour of disclosing the legal advice.
76. The Commissioner considers that there is a very strong public interest in the Home Office being able to obtain full and thorough legal advice to enable it to make legally sound, well thought out and balanced decisions without fear that this legal advice may be disclosed into the public

domain. The legal advice related to an information request, which would be inherently less sensitive than, for example, a statutory investigation. The Commissioner understands that this could be interpreted as an argument in favour of disclosure. However he is satisfied that the arguments in favour of maintaining the exemption in section 42 attract significant weight in this case, particularly given that the advice was recently provided and still relied on by the Home Office. He is also of the view that disclosure of the information would significantly harm the wider principle of legal professional privilege and specifically would make Home Office officials less likely to seek, or be able to obtain free and frank legal advice regarding the handling of requests under the FOIA.

77. In conclusion, having considered the competing public interest arguments, the Commissioner considers that those in favour of maintaining the exemption outweigh those in favour of disclosure. Therefore the Home Office correctly refused to supply the information it identified as exempt under section 42.

Procedural requirements

Section 1: General right of access

Section 10(1): Time for compliance

Section 17(1): Refusal notice

78. Section 1(1)(a) of the FOIA requires that a public authority confirm or deny to the complainant that the requested information is held. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
79. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than twenty working days after the date of receipt of the request.
80. In this case the meta request was made on 11 January 2011, and the Home Office responded on 11 April 2011. This clearly exceeds the time for compliance. Therefore the Commissioner finds that the Home Office failed to comply with sections 1(1)(a), 1(1)(b) and 10(1) in respect of the initial response and information provided to the complainant.

The Commissioner has found that some of the withheld information should have been provided to the complainant in response to his request. It follows that this information was not provided within twenty working days, therefore the Commissioner finds that the Home Office also failed to comply with sections 1(1)(b) and 10(1) in respect of this information.

81. Section 17(1) requires that a public authority wishing to rely on an exemption must issue a refusal notice within the time for compliance. As the refusal notice issued by the Home Office on 11 April 2011 was outside the time for compliance, the Commissioner finds that the Home Office failed to comply with section 17(1).

Right of appeal

82. 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
LEICESTER
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

83. 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.
84. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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