

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 6 June 2023

Public Authority: Northern Ireland Assembly
Address: Parliament Buildings
Stormont
Belfast
BT4 3XX

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as “an information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-185633-L7F1, for a decision whether a request for information made by the complainant to the Northern Ireland Assembly (the Assembly) on 23 February 2022, has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. The complainant requested the following information from the Assembly on 23 February 2022:

Under the Freedom of Information Act, please provide me with all material held by the Assembly in relation to the removal from the Hansard record of words spoken by Martin McGuinness (the background to this request is explained here -

<https://www.belfasttelegraph.co.uk/news/politics/state-papers-assembly-debate-report-altered-after-dups-peter-robinson-threatened-to-sue-41206817.html>

To this day, the Hansard record of the first Assembly debate does not include the 'offending' words which Mr McGuinness used in the chamber that day. As part of your response, please provide me with a copy of the words which were removed from the first column of page 12 of the Official Report for that day:

<http://www.niassembly.gov.uk/globalassets/documents/official-reports/bound-volumes/1998-1999/bv-001.pdf>

3. The Assembly responded on 24 May 2022, advising that it did not hold information falling within the scope of the first part of the request. It advised that the complainant could view audio visual information relating to the second part, but that some information would be redacted under section 40(2) of FOIA.
4. The complainant requested an internal review on 15 June 2022, arguing that the Assembly ought to disclose the withheld information. He did not dispute the Assembly's position with regard to the first part of the request. The Assembly communicated the outcome of that review on 8 July 2022. It maintained its position that the withheld information was exempt from disclosure by virtue of section 40(2) of FOIA.
5. The complainant contacted the Commissioner on 3 August 2022 to complain about the way the Assembly handled the second part of his request. Specifically he wished to challenge the Assembly's reliance on the exemption at section 40(2) in respect of the withheld information.
6. The Commissioner wrote to the Assembly on 20 April 2023. As is his usual practice he requested a full and unredacted copy of the withheld information.
7. The Assembly responded to the Commissioner on 24 April 2023. It requested that the Commissioner issue an information notice under section 51 of FOIA.

Information required

8. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that the Northern Ireland Assembly shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
9. A full response to the enquiries set out in the Commissioner's letter of 20 April 2023, including the withheld information which falls within the scope of the complainant's request. For clarity, the withheld information is limited to the portion of the audio visual recording that focuses on the content redacted in Hansard.

Failure to comply

10. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of FOIA, and may be dealt with as a contempt of court.

Right of appeal

11. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0203 936 8963
Fax: 0870 739 5836
Email: grc@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

12. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed

Sarah O’Cathain
Senior Case Officer
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF