

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 15 August 2022

Public Authority: Department for Environment, Food and Rural Affairs (DEFRA)

Address: Nobel House
17 Smith Square
London
SW1P 3JR

Section 51

Under section 51 of the Freedom of Information Act 2000 (the "Act"), 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 the Act.

51. – (1) If the Commissioner –

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

he may serve the authority with a notice (in this Act 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. Regulation 18 of the Environmental Information Regulations ("the EIR") applies this provision to complaints arising under the EIR.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-129919-H0F9, for a decision whether a request for information made by the complainant to DEFRA on 9 May 2021, has been dealt with in accordance with the requirements of the EIR.

Nature of complaint

2. The Commissioner wrote to DEFRA on 7 June 2022, inviting it to provide its submission in respect of the complaint and requesting copies of the information being withheld.
3. On 5 July 2022, DEFRA sought a two week extension to provide its response – which the Commissioner agreed to.
4. On 20 July 2022, the Commissioner agreed to DEFRA’s request for a further extension of three weeks in order to finalise its submission. However, the Commissioner made clear that he would not be extending this deadline further and that an Information Notice would be likely to follow if DEFRA failed to meet the revised deadline. On 9 August 2022, DEFRA sought to further extend the deadline.
5. The Commissioner recognises that DEFRA has had issues regarding the availability of members of staff who needed to contribute to its submission and that it is not the only public authority to face such issues during the school holidays. He also recognises that DEFRA has been candid about the issues it is facing and has been courteous in keeping his office informed of progress. Nevertheless, the Commissioner considers that the time has now come to impose a formal legal deadline for DEFRA to provide its submission and the information being withheld.

Information required

6. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of the Act he requires that DEFRA shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
 - Copies of any information that it still wishes to withhold.
 - A substantive response to the question posed in his letter of 7 June 2022.

Failure to comply

7. 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 the Act, and may be dealt with as a contempt of court.

Right of appeal

8. 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

9. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF