

## **Freedom of Information Act 2000 (Section 50)**

### **Decision Notice**

**Date: 31 March 2011**

**Public Authority:** Ministry of Justice  
**Address:** 102 Petty France  
London  
SW1H 9AJ

### **Summary**

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The complainant requested information relating to the breaches of the Data Protection European Directive that the European Commission has alleged have been committed by the UK. The public authority refused the request, citing the exemptions provided by sections 27(1)(c) (prejudice to the interests of the UK abroad) and 27(2) (confidential information obtained from a state other than the UK, or from an international organisation or international court) of the Freedom of Information Act. The Commissioner finds that neither of the exemptions cited by the public authority are engaged in relation to request (i) and, in relation to the other requests, that these exemptions are engaged but that the public interest in the maintenance of these exemptions does not outweigh the public interest in disclosure for request (ii), the information caught by requests (iii) and (iv) was correctly withheld. The Commissioner also found that the public authority breached sections 1(1)(b) and 10(1) of the Act in failing to disclose the information caught by requests (i) and (ii) within twenty working days of receipt of the request. The Commissioner has also found that the public authority breached section 17(1) by responding to the request late. The public authority is now required to disclose the information caught by requests (i) and (ii).

## The Commissioner's Role

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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

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2. The complainant made the following information request on 1 October 2009:

*"(i) A list of which Article(s) in Directive 95/46/EC (the Data Protection Directive) the European Commission have alleged have not been implemented properly by the UK Government.*

*(ii) In relation to each Article, summary information as to why the European Commission has made this claim.*

*(iii) In relation to each Article, summary information as to why the UK Government thinks that the European Commission is wrong in its claim.*

*(iv) Summary information as to whether or not any differences in opinion about implementation have now been resolved."*

3. After a delay and following the intervention of the Commissioner's office, the public authority responded substantively to the request on 3 February 2010. The public authority confirmed that it did hold this information, but the request was refused, with the public authority citing the exemption provided by section 27(1)(c) (prejudice to the interests of the UK abroad).
4. The complainant responded to this on 3 February 2010 and asked the public authority to carry out an internal review. After a lengthy delay, and again only following the intervention of the Commissioner's office, the public authority responded with the outcome of the internal review on 25 August 2010. The conclusion of this was that the citing of section 27(1)(c) was upheld. Section 27(2) (confidential information obtained from a state other than the UK or from an international organisation or international court) was now also cited.

## The Investigation

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### Scope of the case

5. The complainant contacted the Commissioner's office initially on 22 January 2010. At that stage the complaint concerned the failure by the public authority to provide a substantive response by that date. As covered above, the Commissioner's office contacted the public authority initially in connection with that issue.
6. The complainant subsequently contacted the Commissioner's office again on 25 March 2010 to complain about the delay in completing the internal review. The Commissioner's office contacted the public authority on 5 May 2010 and asked that it contact the complainant with the outcome of the internal review within 10 working days of that date.
7. The complainant contacted the Commissioner's office again on 11 June 2010 and stated that he was still to receive the outcome of the internal review from the public authority. Upon allocation of this complaint to a case officer, the complainant was contacted on 11 August 2010 to ascertain the situation with the internal review by that time and how he wished to proceed with the case. The complainant responded on the same date and confirmed that he was still to receive the outcome of the internal review and that he did wish the Commissioner's office to consider whether the exemptions cited by the public authority had been applied correctly.
8. Owing to the persistent delays by the public authority in progressing the complainant's request, the decision was taken by the Commissioner's office's to progress this case without waiting for the public authority to complete the internal review. The public authority was informed of this decision by letter dated 12 August 2010.
9. As recorded above, the public authority eventually responded with the outcome of the internal review on 25 August 2010. As the decision had already been made by the Commissioner's office's office to progress this case without awaiting the conclusion of the review, the main significance of the internal review at that stage was whether it would conclude that the information in question was to be disclosed. As this was not the conclusion of the review, the internal review outcome had little bearing on this case, save that the exemption provided by section 27(2) of the Act was introduced.

## **Chronology**

10. The Commissioner's office contacted the public authority on 12 August 2010 in connection with this case. As well as informing the public authority that this case would be progressed without waiting for the internal review to be completed, in this letter the public authority was also asked to respond with a copy of the information withheld from the complainant and with an explanation for the citing of section 27(1)(c), which was at that stage the only exemption cited.
11. The public authority responded on 1 October 2010. At this stage, the public authority provided a copy of the withheld information and gave some further reasoning for its citing of the exemptions provided by sections 27(1)(c) and 27(2), which was introduced at internal review.

## **Analysis**

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### **Substantive Procedural Matters**

#### **Section 11**

12. Prior to analysing the exemptions cited by the public authority, the Commissioner will comment on the wording of the complainant's request and what impact this has within the context of this Notice.
13. Section 11(1)(c) provides that, where a complainant specifies a preference for the information requested to be provided in the form of a digest or summary, the public authority should give effect to that preference where reasonably practicable. This section is set out in full in the attached legal annex, as are all other sections of the Act referred to in this Notice.
14. In this case, the complainant has, in effect, asked for a digest in the form of a list in response to request (i) and has been specific that he wished to be provided with a summary of the information falling within the scope of requests (ii) to (iv). In the event, as the responses of the public authority addressed only the exemptions it was citing, the Commissioner is not aware of whether the public authority collated the information into the form requested by the complainant, or whether it considered it reasonably practicable to do so.
15. When supplying to the Commissioner's office the information falling within the scope of the requests, the public authority provided the complete information, rather than a list and summaries. Consideration

was given as to whether the analysis in this Notice should have been based upon the list and summary specified by the complainant and so whether the public authority should be required to collate the information into those forms.

16. The conclusion on this point was that whilst section 11(1)(c) provides that a public authority should give effect to the preference of a requester as to the means by which they wish the information to be communicated, it does not mean that exemptions cited should relate to anything other than the recorded information held by the public authority. In this case, therefore, the exemptions cited by the public authority relate to the recorded information from which the list and summary would be collated, rather than to information collated into the form requested by the complainant.

## Exemptions

### Section 27(1)(c)

17. Section 27(1)(c) provides an exemption for information the disclosure of which would, or would be likely to, prejudice the interests of the United Kingdom abroad. Consideration of this exemption is a two-stage process; first, the exemption must be engaged as a result of prejudice relevant to the exemption being at least likely to occur. Secondly, this exemption is qualified by the public interest, which means that the information must be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.
18. Covering first whether the exemption is engaged as a result of prejudice relevant to section 27(1)(c) being at least likely to occur, the first step is to consider whether the prejudice predicted by the public authority is relevant to this exemption. This necessitates establishing what the wording of the exemption refers to.
19. The Commissioner's guidance on section 27<sup>1</sup> states the following on this exemption:

*"Information likely to prejudice the interests of the UK abroad will include information held by a public authority, which if disclosed, would harm UK interests in relation to an international arrangement, or in its dealings with another state or non-UK organisation. The interests of the UK abroad and the*

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[http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/awareness\\_guidance\\_14\\_-\\_international\\_relations.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_14_-_international_relations.pdf)

*international relations of the UK would cover a wide range of issues relating to, for example:*

- *UK policy and strategic positioning in relation to other states or to international organisations*
- *Cases before international courts or cases pending”.*

20. In its correspondence with the Commissioner about this case, the public authority set out the prejudice that it believed would be likely to result through disclosure. The impacts of disclosure that the public authority believed would be likely to result were as follows.

- The reputation of the UK for ensuring the confidentiality of information would be damaged and this would reduce the ability of the UK to negotiate future agreements on data protection. The public authority believed that this would be likely to impact on the economy of the UK and on national security.
- The effectiveness of the infraction process would be harmed as confidentiality allows all parties to this process to retain maximum flexibility.

21. On the first bullet point above, the public authority did not explain how or why reducing the ability of the UK to negotiate future agreements on data protection would impact upon the economy of the UK or upon national security. The Commissioner does not accept that a direct impact on the UK economy is an argument relevant to the exemption in question but is it relevant to take into account the impact on the UK's ability to protect these interests in negotiations with the EC.

22. As to the second bullet point, whilst the public authority has not set out its position in detail, either in correspondence with the complainant or with the Commissioner, it appears to be arguing that disclosure would be likely to prejudice the ability of the UK to fully represent its interests in the infraction process. The view of the Commissioner is that this prejudice is similar to the examples given in the Commissioner's guidance on section 27 that are quoted above and accepts, therefore, that this argument is relevant to section 27(1)(c).

23. Turning to the likelihood of this prejudice occurring, the public authority has specified that it believes that prejudice *would be likely* to result, rather than *would* result. The test that the Commissioner applies when considering whether prejudice would be likely to result is that the likelihood of this must be real and significant and more than hypothetical or remote. This is in line with the approach taken by the Information Tribunal in the case *John Connor Press Associates Limited*

*v the Information Commissioner (EA/2005/0005)*, in which it stated on this issue:

*"the chance of prejudice being suffered should be more than a hypothetical possibility; there must have been a real and significant risk."* (paragraph 15)

24. Covering first request (i), the public authority has failed to communicate its stance in relation to this request with clarity. At refusal notice stage the stance of the public authority was that the information specified in request (i) was exempt. When requesting an internal review, the complainant made the point that the information specified in request (i) had already been disclosed into the public domain by the European Commission (EC). As the complainant responded to request an internal review on the same date as the refusal notice, this suggests that this information had been disclosed by the EC prior to the refusal of the request. Also, as noted below at paragraph 26, the public authority has indicated that this information was provided to the complainant prior to the date of the request.
25. In the internal review response, the public authority did not dispute that this information had been disclosed by the EC. Instead, the public authority stated only that it did not intend to supply that information to the complainant again as it was aware that the complainant had been supplied with this information previously. When in correspondence with the Commissioner's office, the public authority stated only that it had not been aware of this disclosure by the EC until it had received the letter from the complainant in which he requested an internal review. It did not comment on what impact this disclosure had on its stance in relation to the exemptions cited.
26. The stance of the public authority in relation to this information appears to be either that it maintains that, at the time of the request, it was correct to cite section 27(1)(c), or that, as this information had already been made available to the complainant, it was not necessary for it to disclose this again. If the former, the Commissioner notes that in the internal review response the public authority stated that this information was disclosed to the complainant by the EC on 13 September 2007. If the latter, the public authority should have cited the exemption provided by section 21(1) (information accessible by other means).
27. In either case, the Commissioner considers the citing of section 27(1)(c) by the public authority in relation to request (i) to be unsustainable. The conclusion of the Commissioner in relation to

- request (i) is, therefore, that the exemption provided by section 27(1)(c) is not engaged.
28. Turning to requests (ii), (iii) and (iv), whilst the public authority has asserted that disclosure would be likely to prejudice the infraction process, it has been unclear as to how this prejudice would come about, or how this is relevant to the interests of the UK abroad. The only reasonably clear indication as to the reasoning of the public authority for the citing of this exemption is provided in the internal review response, where it refers to the need for the infraction process to be conducted freely and frankly and that an erosion of the ability to do so would prejudice the ability of the UK to protect its position in infraction proceedings.
29. The Commissioner has reviewed the content of the information in question and has noted that some of the content of this information could be fairly characterised as setting out the position of the UK in a free and frank manner. The Commissioner has also taken into account his conclusion in a previous Decision Notice which covers similar subject matter<sup>2</sup>, and to which the public authority made reference when refusing the complainant's request. In that case, the Commissioner accepted that disclosing the requested information would be likely to make it more difficult for the UK to negotiate flexibly with the Commission, to the prejudice of the UK's interests abroad.
30. The complainant has argued that this case differs significantly from the earlier case on account of the request in this case being for a list and a summary. The complainant believes that disclosure of information in this way means that the likelihood of prejudice would be reduced. However, as covered above at paragraphs 12 to 16, the Commissioner's analysis concerns whether the exemptions cited apply in relation to the information from which the list and summary would be extracted. The argument that prejudice would be less likely through disclosure of the information in the format requested by the complainant is not, therefore, relevant to the question of whether this exemption is engaged.
31. The Commissioner notes that the infraction proceedings to which the complainant's requests relate remain ongoing. Given this, the Commissioner believes that the factors that applied at the time of his previous decision applied in a similar way at the time of the complainant's request and he concludes that the likelihood of the prejudice predicted by the public authority meets the test of real and

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<sup>2</sup> [http://www.ico.gov.uk/upload/documents/decisionnotices/2006/fs50110720\\_dn.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2006/fs50110720_dn.pdf)

significant. The exemption provided by section 27(1)(c) is, therefore, engaged.

### **The public interest**

32. Having concluded that the exemption is engaged, it is necessary to go on to consider the balance of the public interest. In reaching a view here, the Commissioner has taken into account the public interest inherent in the exemption, that is the public interest in avoiding prejudice to the interests of the UK abroad, which the Commissioner has accepted would be likely to occur through disclosure. He has also taken into account the general public interest in improving the transparency and openness of the public authority. These factors are in addition to those factors that apply in relation to the specific information in question here, including the arguments advanced by the public authority and by the complainant.
33. As was covered in the earlier Decision Notice referred to above, the Commissioner accepts that there is a strong argument that, in general, the public should know why the EC is considering launching infraction proceedings against the UK. Laws are intended to protect the public. There is a strong argument, therefore, that the public should be aware of any alleged deficiencies in them. The arguments are particularly strong as the law in question is intended to provide privacy rights for the general public and is closely linked to the universal human right to privacy. The public interest argument here is particularly strong where there is concern that the UK's transposition of a Directive is failing to provide individuals with the protection that it is designed to deliver. The Commissioner considers this to be a particularly strong argument related to request (ii).
34. The complainant referred to the factors in favour of disclosure recognised in the earlier Decision Notice, and also referred to a speech made by the European Ombudsman which called for greater transparency in the infraction process. The Commissioner agrees with the complainant that the level of public understanding and knowledge about the infraction process is low and that this situation is due in part to a lack of transparency relating to this process. That disclosure would improve the transparency of this process and add to public understanding and knowledge about this is an argument in favour of disclosure of significant weight.
35. To the extent that the public authority has advanced arguments in favour of maintenance of the exemption, it has primarily relied on the public interest in avoiding the prejudice described in the exemption. The refusal notice also referred to public interest in European law being

effectively implemented and that preserving the safe space within which the infraction process can be conducted serves this public interest. The Commissioner agrees that this is a valid public interest factor in favour of disclosure of some weight. It is important to note that the issues were still live at the time of the request. The Commissioner considers that the prejudice from disclosing the information covered by requests (iii) and (iv) would be particularly strong, given that this information would explicitly reveal the extent of the UK's position on the infraction and the attempts being made to resolve the issue request.

36. For information covered by request (ii) the Commissioner makes the following finding: having recognised factors of significant weight in favour of disclosure on the grounds of understanding more about the particular infraction proceedings to which the request relates and about this process in general, the Commissioner does not believe that the weight of the public interest in the maintenance of the exemption is sufficient that these factors are outweighed. The conclusion of the Commissioner is, therefore, that the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.
37. For information covered by requests (iii) and (iv): the Commissioner finds that the public interest in maintaining the exemption does outweigh the public interest in disclosure.

## **Section 27(2)**

38. Having reached the above conclusion on the balance of the public interest in relation to section 27(1)(c), it is necessary to also go on to consider section 27(2) in relation to information covered by request (ii). This section provides an exemption for confidential information obtained from a state other than the UK, or from an international organisation or international court. Consideration of this exemption means establishing if the information in question conforms to the class described in section 27(2); if the information does conform to this description, it is exempt. Similarly to section 27(1)(c), this exemption is qualified by the public interest, meaning that the information should be disclosed unless the public interest in the maintenance of the exemption outweighs the public interest in disclosure.
39. Turning to whether the exemption is engaged, the Commissioner has undertaken a two-stage process here. First, he has considered whether the information in question was obtained by the public authority from the EC, which the Commissioner accepts is an international organisation according to the meaning of the wording of this

- exemption. Secondly, he has considered if this information is confidential.
40. As to whether the information was obtained by the public authority from the EC, if the information in question was created by the public authority, or was created jointly by the public authority and the EC, this information would not fall within the class specified in the exemption.
  41. The Commissioner finds that the content of the information caught by request (ii) was provided by the EC to the public authority. The next step is to consider whether these documents were confidential at the time of the request.
  42. Section 27(3) provides an explanation as to what should be considered confidential for the purposes of this section. This states that any information obtained from a State, organisation or court is confidential at any time while the terms on which it was obtained require it to be held in confidence or the circumstances in which it was obtained make it reasonable for the State, organisation or court to expect that it will be so held.
  43. In explanation for citing this exemption, the public authority asserted that the EC had stated that it wished to conduct the infraction process on a confidential basis. However, the public authority provided no evidence or explanation to support this assertion. As a result the Commissioner does not believe that he can accept that this exemption is engaged on the basis of this assertion and has instead gone on to consider what other grounds there are to conclude that this information is confidential.
  44. The Commissioner has analysed this exemption in a previous Decision Notice which covered similar ground to this case<sup>3</sup>. In that case the public authority advanced more thorough grounds in relation to this exemption than were advanced by the public authority in this case and the Commissioner has considered the factors identified in that case when considering if this exemption is engaged here.
  45. In that case, the public authority referred to Article 4(2) of the Access to Documents Regulation 1049/2001 which partly states that the Commission shall refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations and audits. The public authority in that case also referred the Commissioner to the decisions of the General Court (formerly known as

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<sup>3</sup> [http://www.ico.gov.uk/upload/documents/decisionnotices/2010/fs\\_50205699.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2010/fs_50205699.pdf)

the Court of First Instance – CFI) in *WWF UK v Commission* [1997] ECR II – 313 (WWF) and *The Bavarian Lager Company Ltd v Commission* [1999] ECR II – 3217 (Bavarian Lager).

46. Specifically, at paragraph 63 of the decision in the WWF case, the CFI indicated that Member States are entitled to expect the Commission to refuse access to documents relating to investigations against them which may lead to an infringement procedure. Paragraph 63 partly states:

*"...Court considers that the confidentiality which the Member States are entitled to expect of the Commission in such circumstances warrants, under the heading of protection of the public interest, a refusal of access to documents relating to investigations which may lead to an infringement procedure, even where a period of time has elapsed since the closure of the investigation."*

47. The judges in the Bavarian Lager case also agreed with the above position in the WWF case. They noted at paragraph 46:

*"In the present case, having regard to the preparatory nature of the document at issue and to the fact that, when access to it was requested, the Commission had suspended its decision to deliver the reasoned opinion, it is clear that the procedure under Article 169 of the Treaty was still at the stage of inspection and investigation. As the Court stated in the WWF judgment, the Member States are entitled to expect confidentiality from the Commission during investigations which may lead to an infringement procedure (paragraph 63). The disclosure of documents relating to the investigation stage, during the negotiations between the Commission and the Member State concerned, could undermine the proper conduct of the infringement procedure inasmuch as its purpose, which is to enable the Member State to comply of its own accord with the requirements of the Treaty or, if appropriate, to justify its position (see Case C-191/95 Commission v Germany [1998] ECR I-5449, paragraph 44), could be jeopardised. The safeguarding of that objective warrants, under the heading of protection of the public interest, the refusal of access to a preparatory document relating to the investigation stage of the procedure under Article 169 of the Treaty."*

48. The Commissioner is of the view that the emphasis in both Article 4(2) of the Regulations and the CFI decisions is on the refusal of access to documents which, if disclosed, could undermine the Commission's

investigations. It is not a blanket refusal of access to information and as such there is an implicit recognition that not all disclosed information would undermine investigations. In other words, the confidentiality of information is predicated on the possibility that disclosure could undermine investigations and not merely because it relates to possible infraction proceedings against a Member State.

49. The information in question here constitutes the letters of 'Formal Notice' in which the EC notified that it believed that the UK was not in compliance with the directive and set out its grounds for this, and the record of meetings between the EC and the public authority that followed. The Commissioner believes that this is likely to be information of the kind envisaged in Article 4(2) and in the CFI decisions as that which could undermine the EC's investigations. As to the age of this information, in the quote from the WWF case above, it was noted that confidentiality would persist even after the closure of the investigation.
50. The conclusion of the Commissioner is, for these reasons, that the information covered by request (ii) is confidential. Having already concluded that the EC is an international organisation in the sense intended by the wording of this exemption, the overall conclusion of the Commissioner is that the exemption provided by section 27(2) is engaged.

### **The public interest**

51. Having concluded that this exemption is engaged in relation to some of the information, it has been necessary to go on to consider the balance of the public interest in relation to this information. In forming a conclusion on the balance of the public interest, the Commissioner has taken into account the public interest in preserving the confidentiality of information of this kind referred to in the CFI judgements quoted above, as well as those factors that apply in relation to this specific information, including arguments advanced by the public authority and the complainant. Also of relevance is the general public interest in improving the openness of the public authority.
52. The arguments that apply in relation to the specific information in question are similar to those covered above in relation to section 27(1)(c); to the extent that the public authority has advanced arguments in favour of the exemption, these relate to the importance of preserving the confidentiality of the class of information described in the exemption. As noted, the Commissioner has taken into account the public interest in preserving confidentiality recognised by the CFI and

acknowledges that this is a factor of significant weight in favour of maintenance of the exemption.

53. The complainant argued in favour of disclosure on the grounds of improving the openness and transparency of the infraction process. The Commissioner believes that the content of the information in question here would add substantially to improvement in public understanding and knowledge of the infraction process and, as a result, affords to this factor particularly significant weight.
54. Whilst the Commissioner has recognised the validity of the public interest in maintaining the confidentiality of information of this kind, as covered above in connection with section 27(1)(c), the Commissioner also recognises that public awareness of and understanding about the infraction process is low and, as a result, he considers the public interest in disclosure of the specific information in question here to be of particularly significant weight. This is combined with the general public interest in favour of disclosure on the grounds of improving the openness and transparency of the public authority and the UK government as a whole. For these reasons, the Commissioner concludes that the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure. The information should therefore be disclosed.

## **Procedural Requirements**

### **Sections 1 and 10**

55. In failing to disclose within twenty working days of receipt of the request information which the Commissioner has now concluded should be disclosed, the public authority failed to comply with the requirements of sections 1(1)(b) and 10(1).

### **Section 17**

56. In failing to respond substantively within twenty working days of receipt of the request, the public authority did not comply with the requirement of section 17(1).

## **The Decision**

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57. The Commissioner's decision is that the public authority did not deal with the request in accordance with the Act:

- for element (i) of the request, it concluded incorrectly that the exemptions provided by sections 27(1)(c) and 27(2) were engaged;
- for element (ii), it concluded incorrectly that the public interest favoured the maintenance of these exemptions;
- for elements (iii) and (iv), it correctly concluded that the public interest favoured the maintenance of these exemptions;
- it breached section 1(1)(b) by failing to disclose the information;
- it breached section 10(1) by failing to disclose it within twenty working days;
- it failed to comply with section 17(1) in that it did not respond substantively to the request within twenty working days of receipt.

## **Steps Required**

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58. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- disclose to the complainant the list and summaries specified in requests (i) and (ii).
59. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## **Failure to comply**

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60. 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.

## **Other matters**

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61. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern. The Commissioner's published guidance on internal reviews states that a review should be conducted within 20 working days, unless there are exceptional circumstances, in which case the review period may be

extended to 40 working days. In this case the Commissioner notes that there appeared to be no exceptional circumstances, but that the public authority failed to respond with the outcome of the review within twenty working days. Neither did the public authority respond with the outcome of the review within forty working days. The public authority should ensure that internal reviews are carried out promptly in future.

## Right of Appeal

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62. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://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.

63. 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 March 2011**

**Signed .....**

**Steve Wood**  
**Head of Policy Delivery**

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

## **Legal Annex**

**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.'*

**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 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 27(1)** provides that –

*'Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice-*

*(a) relations between the United Kingdom and any other State,*

*(b) relations between the United Kingdom and any international organisation or international court,*

- (c) *the interests of the United Kingdom abroad, or*
- (d) *the promotion or protection by the United Kingdom of its interests abroad.'*

**Section 27(2)** provides that –

*'Information is also exempt information if it is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court.'*