

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 18 October 2019

Public Authority: The Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

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 her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

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

she 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.

Application under section 50

1. The Commissioner has received an application under section 50, reference FS50836127, for a decision whether a request for information made by the complainant to the Cabinet Office on 13 February 2019, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. The complainant submitted the following request to the Cabinet Office 13 February 2019:

'1...Can you list each and every occasion when Mr Banks was recommend or nominated or considered for a Knighthood. In the case of each consideration or nomination can you please detail the actual Honours list and year. Please include every single instance irrespective of whether the honour was accepted or rejected or not proceeded with for whatever reason.

2...Can you please provide copies of any written recommendations or nominations for a Knighthood together with all supporting documents. Please feel free to react the names of any members of the public who may have nominated him. But please do not redact the names of any Prime Minister, Secretary of State, Government Minister, MP, civil servant or member of The Royal Family behind the nomination or mentioned in the documents. Please do not redact any organisations or bodies from the documentation including but limited to The DCMS, any professional sporting body or a football club.

3...As far as each attempt to get a Knighthood for Mr Banks is concerned can you please provide copies of correspondence and communication written by The Cabinet Office to the person(s) or organisation(s) behind each nomination. Can you also provide copies of each correspondence and communication written by the person(s) or organisation(s) behind every nomination to The Cabinet Office. In each instance can you also include copies of any supporting documents. Please feel free to react the names of any members of the public who may have nominated him. But please do not redact the names of any Prime Minister, Secretary of State, Government Minister, MP, civil servant or member of The Royal Family mentioned in the documents. Please do not redact the names of any organisation or body identified or mentioned in the documents.

4...Can the Cabinet Office please provide copies of all written correspondence and communication including emails to the DCMS which in any way relates to the issue of a Knighthood for Mr Banks. Can you also provide copies of all correspondence and communications written by the DCMS to the Cabinet Office which relates to the issue of a Knighthood to Mr Banks. Please feel free to redact the names of any members of the public from the documents. But do not redact the names of any organisation or body mentioned in the documents. Please do not redact the names of any Prime Minister, Secretary of State, Government Minister, MP, civil servant or member of The Royal Family.

5...Has the Cabinet Office lost documentation relating to attempts to get Mr Banks a Knighthood. If so can it please provide further details. Can it please provide copies of all documents including internal communications and external communications which in any way related to the idea of documents relating to Mr Banks going missing.'

3. The Cabinet Office responded on 8 March 2019 and explained that it was seeking to withhold the information falling within the first four parts of the request on the basis of section 37(1)(b) (honours) of the Act. It also considered some of this information to be exempt from disclosure on the basis of sections 40(2) (personal data) and 41(1) (information provided in confidence) of Act. In respect of part five of the request the Cabinet Office explained that it did not recognise claims that the nomination papers were lost and that it had previously publicly addressed this issue. The Cabinet Office also explained that internal correspondence discussing the allegations were themselves exempt from disclosure on the basis of section 37(1)(b) of Act.
4. The complainant contacted the Cabinet Office on 17 March 2019 and asked it to conduct an internal review of the decision to withhold information falling within the scope of his request.
5. The Cabinet Office informed him of the outcome of the internal review on 8 April 2019 and stated that it did not hold any information falling within the scope of his request.
6. The complainant contacted the Commissioner on 9 April 2019 in order to complain about the about the Cabinet Office's handling of his request. He noted the contradictory position adopted by the refusal notice and internal review and argued that, assuming that the Cabinet Office does hold information falling within the scope of this request, he was of the view that this should be disclosed.
7. The Commissioner wrote to the Cabinet Office on 23 July 2019 in relation to this complaint. She explained that given the circumstances of this request, she assumed that the Cabinet Office did in fact hold information falling within the scope of this request and the statement in the internal review response to the contrary was incorrect. The Commissioner therefore asked the Cabinet Office to provide her with a copy of the information falling within the scope of the request along with submissions to support is reliance on the exemptions contained at sections 37(1)(b), 40(2) and 41(1) of the Act. The Commissioner also noted that the refusal notice explained that the Cabinet Office had already publicly addressed allegations that nomination papers concerning Gordon Banks were lost and she asked for details of how and

when the Cabinet Office had publicly addressed these allegations. The Commissioner asked for a response to this letter within 20 working days.

8. To date, the Cabinet Office has failed to provide the Commissioner with a response to her letter.

Information required

9. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act she requires that the Cabinet Office shall, within 30 days of the date of this notice, furnish the Commissioner with a copy of the following information.

- A full response to her letter of 23 July 2019.

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 the Act, 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: 0300 1234504

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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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