

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 12 November 2019

Public Authority: The Ministry of Defence
Address: Main Building
Whitehall
London
SW1A 2HB

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 FS50838374, for a decision whether a request for information made by the complainant to the Ministry of Defence (MOD) on 15 October 2018, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. The complainant a request to MOD on 15 October 2018 seeking a copy of the following document:

'JSP900: UK Targeting Policy (edition II, September 2015)'
3. The MOD responded on 1 February 2019 and confirmed that it held the requested information but it considered this to be exempt from disclosure on the basis of section 26 (defence) of the Act.
4. The complainant contacted the MOD on 20 March 2019 and asked it to conduct an internal review of this refusal.
5. The MOD informed the complainant of the outcome of the internal review on 5 June 2019. The review concluded that the requested information was exempt from disclosure on the basis of sections 26(1)(b), 24(1) (national security) and 27(1)(a) and (b) (international relations) of the Act.
6. The complainant contacted the Commissioner on 5 June 2019 in order to complain about the MOD's refusal of his request.
7. The Commissioner wrote to the MOD on 25 July 2019 in relation to this complaint. She asked the MOD to provide her with a copy of the withheld information and submissions to support its reliance on sections 24(1), 26(1) and 27(1)(a) and (b). The Commissioner asked for a response to this letter within 20 working days.
8. The MOD contacted the Commissioner on 29 August 2019 and explained that it was now intending to release a significant portion of the information to the complainant, albeit that some of the information would still remain exempt from disclosure. The MOD asked for an extension until 20 September 2019 in order to complete this work.
9. The Commissioner contacted the MOD on 3 September 2019 and confirmed that she was happy to offer this extension.
10. The MOD contacted the complainant on 19 September 2019 and explained that it was continuing to prepare the information for disclosure and hoped to be in a position to complete this work by 4 October 2019.
11. The Commissioner contacted the MOD on 11, 16 and 18 October 2019 asking for an update on the progress on this matter.
12. The MOD contacted the Commissioner on 18 October 2019 and explained that a redacted version of the requested information had been

prepared and this was currently going through the final stage of clearance. The MOD hoped to issue this to the complainant, copied to Commissioner, early the following week (ie the week beginning 21 October). The MOD explained that a response to the Commissioner's letter of 25 July 2019 would be sent shortly after this disclosure.

13. The MOD provided the complainant with a redacted version of the information falling within the scope of his request on 29 October 2019. At this point, the MOD explained to the Commissioner that it intended to provide her with a response to her letter of 25 July 2019 shortly, with aim of doing so by 1 November 2019.
14. However, to date the Commissioner has not received a response to her letter of 25 July 2019.

Information required

15. 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 MOD shall, within 30 days of the date of this notice, furnish the Commissioner with a copy of the following information:
 - A full and complete response to her letter of 25 July 2019; ie an unredacted copy of the information falling within the scope of the request and further submissions to support the MOD's reliance on the various exemptions it has cited.

Failure to comply

16. 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

17. 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

18. 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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