

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 2 March 2020

Public Authority: Department of Health and Social Care
Address: 37 Victoria Street
London
SW1H 0EU

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 FS50826176 for a decision whether a request for information made by the complainant to the Department of Health and Social Care (the DHSC) on 10 January 2019, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. On 10 January 2019 the complainant made the following information request to the DHSC:

"Thank you for your email of 9/1/19. I'm afraid you have misinterpreted my request.

You say in your email: 'I have interpreted your request to include preparations that relate to the period where free movement has ended, rather than preparations that solely relate to a no-deal Brexit.'

As stated in my request, I am interested in preparations that solely relate to a no-deal Brexit.

However, as you suggest, I agree that it would be useful to specify a time range. Please restrict your searches to 2018. I am still interested in information relating to preparations made by the department for dealing with recruitment into the social care sector in the event of a no-deal Brexit."

3. The DHSC responded on 7 February 2019. It refused to disclose the requested information citing section 35(1)(a) of the FOIA.
4. The complainant requested an internal review on 8 February 2019.
5. The DHSC carried out an internal review and notified the complainant of its findings on 28 February 2019. It upheld its application of section 35(1)(a) of the FOIA.
6. The complainant referred the matter to the Commissioner on 4 March 2019.
7. The Commissioner wrote to the DHSC on 11 July 2019 to request a copy of the withheld information and further submissions in relation to its application of section 35(1)(a) of the FOIA.
8. The DHSC responded on 30 August 2019. It provided further submissions but failed to provide a copy of the withheld information.
9. The Commissioner wrote to the DHSC on 17 January 2020 to request again a copy of the withheld information.
10. The DHSC responded on 24 January 2020 and said that it had requested the withheld information from its policy officials and would provide this in due course.

11. The Commissioner wrote to the DHSC again on 26 February 2020 and requested that the withheld information is provided without further delay and preferably by the end of business that week.
12. The Commissioner chased the matter again on 28 February 2020.
13. The DHSC updated the Commissioner on 28 February 2020 and confirmed that the relevant policy officials had been redirected to other work. It stated that the requested information had been requested multiple times but it had not to date been provided.

Information required

14. 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 DHSC shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information.
 - A copy of the withheld information.

Failure to comply

15. 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

16. 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

17. 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

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