

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 28 June 2021

Public Authority: Welsh Government
Address: Cathays Park
Cardiff
CF10 2NQ

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 IC-42095-X5S2, for a decision on whether a request for information made by the complainant to the Welsh Government on 23 February 2020, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. The Commissioner understands that the complainant submitted the following request to the Welsh Government on 23 February 2020:

"details of meetings since 1 January 2017 between the Environment and Rural Affairs Minister and the Farmers Union of Wales and / or the National Farmers Union, including: the reasons for the meeting, the names of those attending and the interests represented, as required to be recorded by Section 3.6 of the Ministerial Code".
3. The Welsh Government responded on 20 March 2020. It advised that some information was already publicly available, and provided a weblink to that information. It further cited the exemption at section 22 of the Act in respect of information from January to March 2020 (information intended for future publication).
4. The complainant requested an internal review on 31 March 2020 but did not receive a response.
5. On 1 June 2020 the complainant wrote to the Commissioner to complain that the Welsh Government had failed to provide him with the outcome of the internal review.
6. The Welsh Government provided the outcome of the internal review on 28 August 2020. The internal review upheld reliance on section 22, and additionally cited the exemptions at section 35 (formulation or development of government policy) and section 40 (personal data) of the Act in respect of the requested information that had not been published.
7. The complainant advised the Commissioner on 22 September 2020 that he wished to pursue his complaint. The complainant pointed out that he had requested the reasons for the meetings rather than details of the discussions.

The Commissioner's investigation

8. The Commissioner wrote to the Welsh Government on 3 December 2020, requesting a copy of the withheld information and further details of the Welsh Government's application of the exemptions cited.
9. The Commissioner requested a response within 20 working days. The Commissioner acknowledged that the Welsh Government, like many public authorities, had needed to redeploy staff to deal with the consequences of the Covid-19 pandemic. Therefore the Commissioner advised the Welsh Government that she would be prepared to extend

this time limit if necessary. However the Commissioner did ask that the withheld information at least be provided to her within the 20 working days.

10. Unfortunately, at the time of issuing this information notice the Commissioner had not received a substantive response from the Welsh Government. Nor had she received the withheld information as requested.
11. The Commissioner acknowledges that many public authorities are still dealing with disruption caused by Covid-19, but expects that authorities will advise the Commissioner's case officers as soon as possible if they anticipate being unable to comply with a deadline. The Commissioner considers it necessary to issue an information notice in this case because the Welsh Government has been unable to advise the Commissioner when a response to her enquiries will be forthcoming.

Information required

12. 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 Welsh Government shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
 - i. A full and unredacted copy of the withheld information; and
 - ii. A full response to the Commissioner's enquiries as set out in her letter dated 3 December 2020.

Failure to comply

13. 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

14. 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

15. 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

Sarah O’Cathain
Senior Case Officer
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF