

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 27 September 2022

Public Authority: Department of Health and Social Care

Address: 39 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 him with any information he requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

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

he 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-138346-Y1N6, for a decision whether a request for information made by the complainant to the Department of Health and Social Care ("the DHSC") on 30 May 2021, has been dealt with in accordance with the requirements of Part I of the Act.

Nature of complaint

2. The Commissioner originally wrote to the DHSC on 12 August 2021 asking for it to provide a formal submission in respect of the above complaint as well as a copy of the opinion of the Qualified Person and copies of any information being withheld. He asked the DHSC to respond within 20 working days.
3. When the DHSC failed to meet this deadline, the Commissioner chased the DHSC for a response within the next seven days. The DHSC admitted that the complaint had not been correctly logged and that, as a result, it would have difficulty meeting that deadline.
4. In subsequent correspondence, the DHSC sought a further 20 working days in which to prepare its response, given the complexity of the underlying matter and the number of related complaints currently at investigation stage.
5. Given the DHSC's recent history of delayed responses, the Commissioner considers that it is now more appropriate to serve an information notice to set a formal legal deadline for the DHSC to respond to his investigation.

Information required

6. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of the Act he requires that the DHSC shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following:
 - A substantive response to the Commissioner's letter of 12 August 2022.
 - Copies of any information the DHSC still wishes to withhold.
 - [If still relying on section 36 of FOIA] A copy of the opinion of the Qualified Person.

Failure to comply

7. 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

8. 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

9. 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

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