

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 1 September 2023

Public Authority: Department for Business & Trade ("DBT")

Address: Old Admiralty Building
London
SW1A 2DY

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), 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 FOIA.

51. – (1) If the Commissioner –

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

he may serve the authority with a notice (in FOIA 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-238809-R9N4 for a decision whether a request for information made by the complainant to Department for International Trade ("DIT")¹ on 8 June 2022, has been dealt with in accordance with the requirements of Part I of FOIA.

¹ On 7 February 2023, under a Machinery of Government Change, the Department for International Trade ("DIT") began the transition into the Department for Business & Trade

Nature of complaint

2. On 8 June 2022 the complainant made the following request for information:

"This is a request for information under the Freedom of Information Act. I would like to request the following information:

(1) According to transparency releases, Lord Grimstone of Boscobel met with Hakluyt to "discuss their investment into the UK". In light of this, please provide:

- A full list of attendees, including the full names and titles of each attendee, as well as who each attendee represents
- The exact time, date and duration of when the meeting took place - The location of the meeting
- A description of what exactly was discussed
- A copy of the agenda
- Materials that were handed out and received during the meeting, such as presentation slides, reports, data, and papers
- Minutes taken during the meeting, as well as any accompanying briefing notes and papers

(2) Please provide all correspondence and communications between Lord Grimstone and Hakluyt."

3. On 9 June 2022 DIT acknowledged the request.
4. On 14 June 2022 DIT requested further information in order to locate and identify the requested information. The complainant responded the following day (15 June 2022) providing further detail.
5. On 5 July 2022 DIT confirmed that it held information within the scope of the request but would be relying on section 43 – commercial interests- to withhold the information and required further time to consider the public interest test ("PIT").
6. On 3 August 2022 DIT advised the complainant that it required further time to consider the PIT.
-

("DBT"). The request in this case was made to DIT, however this notice will be served on DBT as the appropriate authority.

7. On 8 August 2022 the complainant contacted the Commissioner regarding the delay in receiving a response from DIT.
8. On 15 August 2022 the Commissioner wrote to DIT reminding it of its responsibilities under FOIA and asking it to provide a substantive response within 10 working days.
7. On 1 September 2022 DIT wrote to the complainant to advise that it was still considering the PIT.
8. On 5 September 2022 the complainant reminded DIT that the Commissioner had contacted it with regard to its delay in providing a substantive response.
9. On 12 September 2022 the Commissioner served a decision notice [IC-185261-R3M6²] finding DIT in breach of FOIA section 17(3) for the time taken to finalise its PIT considerations. The decision notice ordered DIT to respond by 16 October 2022.
10. On 29 September 2022 DIT explained that it held some information and provided redacted copies of the information held. The information was redacted in reliance of FOIA section 43(2) – commercial interests and section 40(2) – personal information.
11. On 3 October 2022 the complainant requested an internal review.
12. On 4 November 2022 DIT advised the complainant that it had not completed its internal view but hoped to do so by 28 November 2022.
13. On 16 December 2022 the complainant requested an update as they had not received their internal review.
14. On 19 December 2022 DIT contacted the complainant to advise that it was still working on the internal review.
15. On 1 March 2023 the complainant requested an update as they had been waiting for their review for five calendar months.
16. On 8 March 2023 the complainant was advised that their review would be ready shortly.

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021758/ic-185261-r3m6.pdf>

17. On 15 March 2023 DBT provided the internal review and disclosed further information, previously withheld under section 40(2). It maintained its reliance on section 43(2) and in addition relied on FOIA section 41(1) – information provided in confidence.
18. On 15 June 2023 the complainant contacted the Commissioner to complain about DBT's responses to their request. They focussed their complaint on sections 43(2) and 41(1).
19. On 21 June 2023 the Commissioner wrote to DBT informing it that he had accepted the complaint, that it would be allocated in due course and that he expected the public authority to use the time prior to allocation to ensure that it was ready for the investigation, once the complaint was allocated.
20. On 6 July 2023 the Commissioner contacted DBT asking for an unredacted copy of the information held in the scope of the request and responses to his standard investigation questions for the exemptions complained about along with more case specific questions. The Commissioner asked for DBT's submissions by 3 August 2023.
21. On 26 July 2023 DBT contacted the Commissioner to advise that it would be unable to provide its response by 3 August 2023. The Commissioner agreed to a maximum extension of time to 18 August 2023.
22. On 18 August 2023 DBT advised that it would not be providing its response but would finalise the response week commencing 21 August 2023.
23. On 21 August 2023 the Commissioner asked DBT to provide a specific date in the week for the provision of its submissions,
24. On 22 August 2023 DBT advised the Commissioner that it could not be certain but would expect to provide the response on 24 or 25 August 2023.
25. To date the response and requested information remain outstanding. In view of the age of this case the Commissioner has proceeded to serve this notice.

Information required

26. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that DBT shall, within 30 calendar days of the date of this

notice, furnish the Commissioner with a copy of the following information:

- A final substantive response to his letter of 6 July 2023.
- Copies of the unredacted information and any other information held in scope of the request

Failure to comply

27. 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 FOIA, and may be dealt with as a contempt of court.

Right of appeal

28. 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

29. 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

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