

P. John
request-10666-34812142@whatdotheyknow.com
(by email only)

28 May 2009

Dear P. John

FREEDOM OF INFORMATION ACT 2000

Thank you for your request for information dated 28 April 2009.

The Freedom of Information Act 2000 obliges us to respond to requests promptly, and in any case no later than 20 working days after receiving your request. However, when a qualified exemption applies to the information and the public interest test is engaged, the Act allows the time for response to be longer than 20 working days, and a full response must be provided within such time as is reasonable in all circumstances of the case. We do, of course, aim to make all decisions within 20 working days, including in cases where we need to consider where the public interest lies in respect of a request for exempt information. In this case, however, we have not yet reached a decision on where the balance of the public interest lies.

In your case we estimate that it will take an additional 10 working days to take a decision on where the balance of the public interest lies. Therefore, we plan to let you have a response by 11 June 2009. If it appears that it will take longer than this to reach a conclusion, we will keep you informed.

The specific exemption which applies in relation to your request is section 30 of the FOI Act:

30 Investigations and proceedings conducted by public authorities

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of—

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained—

(i) whether a person should be charged with an offence, or

(ii) whether a person charged with an offence is guilty of it,



(b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or

(c) any criminal proceedings which the authority has power to conduct.

(2) Information held by a public authority is exempt information if—

(a) it was obtained or recorded by the authority for the purposes of its functions relating to—

(i) investigations falling within subsection (1)(a) or (b),

(ii) criminal proceedings which the authority has power to conduct,

(iii) investigations (other than investigations falling within subsection (1)(a) or (b)) which are conducted by the authority for any of the purposes specified in section 31(2) and either by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under any enactment, or

(iv) civil proceedings which are brought by or on behalf of the authority and arise out of such investigations, and

(b) it relates to the obtaining of information from confidential sources.

(3) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1) or (2).

(4) In relation to the institution or conduct of criminal proceedings or the power to conduct them, references in subsection (1)(b) or (c) and subsection (2)(a) to the public authority include references—

(a) to any officer of the authority,

(b) in the case of a government department other than a Northern Ireland department, to the Minister of the Crown in charge of the department, and

(c) in the case of a Northern Ireland department, to the Northern Ireland Minister in charge of the department.

(5) In this section— “criminal proceedings” includes—

(a) proceedings before a court-martial constituted under the



Army Act 1955, the [1955 c. 18.] Air[1955 c. 19.] Force Act 1955 or the [1957 c. 53.] Naval Discipline Act 1957 or a disciplinary court constituted under section 52G of the Act of 1957,

(b) proceedings on dealing summarily with a charge under the Army Act 1955 or the [1955 c. 18.] Air[1955 c. 19.] Force Act 1955 or on summary trial under the [1957 c. 53.] Naval Discipline Act 1957,

(c) proceedings before a court established by section 83ZA of the [1955 c. 18.] Army Act 1955, section 83ZA of the [1955 c. 19.] Air Force Act 1955 or section 52FF of the [1957 c. 53.] Naval Discipline Act 1957 (summary appeal courts),

(d) proceedings before the Courts-Martial Appeal Court, and

(e) proceedings before a Standing Civilian Court;

“offence” includes any offence under the [1955 c. 18.] Army Act 1955, the [1955 c. 19.] Air Force Act 1955 or the [1957 c. 53.] Naval Discipline Act 1957.

(6) In the application of this section to Scotland—

(a) in subsection (1)(b), for the words from “a decision” to the end there is substituted “a decision by the authority to make a report to the procurator fiscal for the purpose of enabling him to determine whether criminal proceedings should be instituted”,

(b) in subsections (1)(c) and (2)(a)(ii) for “which the authority has power to conduct” there is substituted “which have been instituted in consequence of a report made by the authority to the procurator fiscal”, and

(c) for any reference to a person being charged with an offence there is substituted a reference to the person being prosecuted for the offence.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the service you have received in relation to your request or wish to request an internal review, you should write to:

Sue Gray
Director
Cabinet Office
70 Whitehall
London
SW1A 2AS



email: foiteam@cabinet-office.x.gsi.gov.uk

You should note that the Cabinet Office will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by Cabinet Office. The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Please contact me if you have any queries about this letter.

Yours sincerely,



PP **YASMINE EDWARDS**

