



Home Office

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Mr Michael Bimmler
request-4466-24b4fa8c@whatdotheyknow.com

Our Ref: 10694
Date: 14 July 2009

Dear Mr Bimmler,

I am writing further to my letter dated 11 June 2009, regarding your request for an internal review.

I must first apologise for the delay in providing you with a full response. However, I have now completed a full review of the handling of your request and of the reasons behind the decisions taken by the Home Office. This request has been treated on its own merits and all papers originally considered have been re-considered as part of the internal review.

The detailed findings of my review are set out in the annex to this letter. In summary I have concluded that:

- The Home Office breached section 10(1) of the Act in failing to respond to your request or to extend the deadline for response within 20 working days.
- The Home Office did not hold any information relating to your request at the time it was received. In stating that it did hold information and that the said information was exempt under section 31(1)(a) of the Act, the department breached sections 1(1)(a) and 17(1) of the FOI Act.

Please accept my sincere apologies for the failure to deal with your request for information in accordance with the Act. The Home Office takes its responsibilities under the Act very seriously and I have ensured that the findings of this review have been brought to the attention of the officers concerned in the handling of your request.

You may be interested to know that some information (dated following your request) has since been released in to the public domain. This includes a letter from then Assistant Commissioner Bob Quick to the Home Secretary dated 3 December 2008. A copy of the text of this letter can be found at the following URL:
http://news.bbc.co.uk/1/hi/uk_politics/7765081.stm.

I realise that this response may be a disappointment to you. However I would like to assure you that the review has been both thorough and independent and I am

satisfied that the Home Office does not hold any information relevant to the second part of your request.

Should you remain dissatisfied after this internal review you have the right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information. The relevant address can be found in the annex to this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Bragaglia', with a horizontal line above it.

John Bragaglia
Information Access Consultant

Annex

The first part of my review concerned the procedural aspects of the handling of your case. Your request was received by the Department on 1 December 2008. Section 10(1) of the Act states:

'a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'

You received a final response on 11 February 2009, a full 49 working days following receipt of the request, well over the 20 working day deadline specified in section 10(1) of the Act.

The 20 working day deadline is extendable by virtue of section 10(3) of the Act. However, a full extension letter, and notice of the qualified exemption under consideration must be provided within the original deadline. A Public Interest Test (PIT) extension letter was sent to you on 19 January, outside of the deadline. The letter stated that the exemption at section 31 of the Act was being considered and provided you with a revised deadline of 29 January 2009. The failure to provide an extension notice within the 20 working day deadline represents a breach of section 10(1) of the Act.

On 30 January 2009, you wrote to the caseworker enquiring as to our response. Following this a further extension letter was sent to you, extending the deadline to 26 February 2009. Unfortunately, as the second extension notice was sent the day following the first extended deadline, this represents an additional breach of section 10(1) of the Act.

The failure to respond within twenty working days and the subsequent failure to respond within a revised deadline represents a breach of section 10(1) of the Act.

The Home Office apologises for these breaches of section 10(1). The Department takes its responsibilities under the Act seriously and always aims to respond within the 20 working day deadline where possible. There will be some circumstances where this will not be possible and the deadline will need to be extended. However, in all such circumstances applicants should be kept fully informed as to the progress of their request. I have taken this opportunity to remind the relevant caseworkers of the importance of maintaining contact with applicants and regularly updating them on expected response times.

When requesting an internal review you asked that its scope should specifically be limited to the refusal to provide information withheld under the exemption at section 31(1)(a) of the Act. In the second part of my review I have looked at this decision and whether it was taken in compliance with the requirements of the Act. Having now completed my investigation I can inform you that the Home Office did not hold any information relating to the second part of your request, at the time at which it was made.

The failure to inform you that information relevant to this part of your request was not held by the Home Office represents a breach of section 1(1)(a) of the Act which states:

'1(1) Any person making a request for information to a public authority is entitled-

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request'

Additionally, the failure to provide an accurate response represents an additional breach of section 17(1) of the Act. I apologise for these breaches and have further reminded caseworkers of the need to check carefully both the scope of the request and the date at which it was made before concluding whether any relevant information is or is not held. As you will be aware Freedom of Information requests can be made for information held by an authority at the time at which the request was submitted.

Right of complaint

Should you remain dissatisfied after this internal review you have the right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

You can write to him at:

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF