

## FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

### DECISION NOTICE

Dated 21<sup>st</sup> December 2005

**Name of Public Authority:** Department of Trade and Industry

**Address of Public Authority:** 1 Victoria St  
London  
SW1H 0ET

#### **Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 24<sup>th</sup> February 2005 the following information was requested from the Department of Trade and Industry (the "DTI") under section 1 of the Freedom of Information Act 2000 (the "Act"):

"Please provide copies of the full information provided by Sir Nicholas to Sir Richard now Lord Scott and his Inquiry, or provide me with the facilities to see and copy the full information."

It is alleged that:

- (1) The information was not complied with within 20 working days.
- (2) The DTI stated falsely that the information is not held.

#### **The Commissioner's Decision**

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

(1) The complainant has stated that the information request was made on 24<sup>th</sup> February 2005 by letter. However, the DTI has stated that the information request was not received until the complainant sent it for a second time, on 7<sup>th</sup> April 2005. Without evidence to show that the DTI did receive the initial request, sent on 24<sup>th</sup> February 2005, the Commissioner accepts the representations of the DTI that they did not receive the initial request, but did receive the second request, dated 7<sup>th</sup> April 2005. The DTI responded to the second request on the 27<sup>th</sup> April 2005. Consequently, accepting the 7<sup>th</sup> April 2005 as the date when the request was received, the DTI has dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has complied with section 10(1).

Section 10(1) of the Act states:

Reference: FS50090698

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

(2) The DTI has stated, to the Commissioner, that 3 searches for the information requested have been carried out and that none of the searches have located the requested information. The DTI has confirmed that whilst the information in question was provided to the Scott Inquiry, it was not provided to the DTI, at any stage. The DTI has also confirmed that it is not the primary holder of information relating to the Scott Inquiry. The DTI directed the complainant to the Cabinet office as the holder of such information. However, the complainant maintains that the information in question is held by the DTI, but no evidence has been made available to the Commissioner that suggests that this is likely. According to the information available to him, the Commissioner concludes that the DTI has dealt with the complainant's request in accordance with the requirements of Part I of the Act in that it has complied with section 1(1).

Section 1(1) of the Act states:

“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, and

(b) if that is the case, to have that information communicated to him.”

### **Action Required**

In view of these matters, the Commissioner hereby gives notice that he does not require any remedial steps to be taken by the DTI.

### **Right of Appeal**

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 21<sup>st</sup> day of December 2005

Signed: .....

Graham Smith - Deputy Commissioner  
Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow

Reference: FS50090698  
Cheshire SK9 5AF