



# Freedom of Information Act 2000

## 2000 CHAPTER 36

### PART IV

#### ENFORCEMENT

#### **50 Application for decision by Commissioner.**

- (1) Any person (in this section referred to as “the complainant”) may apply to the Commissioner for a decision whether, in any specified respect, a request for information made by the complainant to a public authority has been dealt with in accordance with the requirements of Part I.
- (2) On receiving an application under this section, the Commissioner shall make a decision unless it appears to him—
  - (a) that the complainant has not exhausted any complaints procedure which is provided by the public authority in conformity with the code of practice under section 45,
  - (b) that there has been undue delay in making the application,
  - (c) that the application is frivolous or vexatious, or
  - (d) that the application has been withdrawn or abandoned.
- (3) Where the Commissioner has received an application under this section, he shall either—
  - (a) notify the complainant that he has not made any decision under this section as a result of the application and of his grounds for not doing so, or
  - (b) serve notice of his decision (in this Act referred to as a “decision notice”) on the complainant and the public authority.
- (4) Where the Commissioner decides that a public authority—
  - (a) has failed to communicate information, or to provide confirmation or denial, in a case where it is required to do so by section 1(1), or
  - (b) has failed to comply with any of the requirements of sections 11 and 17,

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the decision notice must specify the steps which must be taken by the authority for complying with that requirement and the period within which they must be taken.

- (5) A decision notice must contain particulars of the right of appeal conferred by section 57.
- (6) Where a decision notice requires steps to be taken by the public authority within a specified period, the time specified in the notice must not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, no step which is affected by the appeal need be taken pending the determination or withdrawal of the appeal.
- (7) This section has effect subject to section 53.

#### Modifications etc. (not altering text)

- C1 [S. 50](#) applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(4)(9)}

#### Commencement Information

- II [S. 50](#) wholly in force at 1.1.2005; [s. 50](#) not in force at Royal Assent, see [s. 87\(3\)](#); [s. 50](#) in force for certain purposes at 1.1.2005 by [S.I. 2004/1909](#), [art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## 51 Information notices.

- (1) If the Commissioner—
  - (a) has received an application under section 50, or
  - (b) reasonably requires any information—
    - (i) for the purpose of determining whether a public authority has complied or is complying with any of the requirements of Part I, or
    - (ii) for the purpose of determining whether the practice of a public authority in relation to the exercise of its functions under this Act conforms with that proposed in the codes of practice under sections 45 and 46,
 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.
- (2) An information notice must contain—
  - (a) in a case falling within subsection (1)(a), a statement that the Commissioner has received an application under section 50, or
  - (b) in a case falling within subsection (1)(b), a statement—
    - (i) that the Commissioner regards the specified information as relevant for either of the purposes referred to in subsection (1)(b), and
    - (ii) of his reasons for regarding that information as relevant for that purpose.
- (3) An information notice must also contain particulars of the right of appeal conferred by section 57.

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- (4) The time specified in an information notice must not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information need not be furnished pending the determination or withdrawal of the appeal.
- (5) An authority shall not be required by virtue of this section to furnish the Commissioner with any information in respect of—
  - (a) any communication between a professional legal adviser and his client in connection with the giving of legal advice to the client with respect to his obligations, liabilities or rights under this Act, or
  - (b) any communication between a professional legal adviser and his client, or between such an adviser or his client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.
- (6) In subsection (5) references to the client of a professional legal adviser include references to any person representing such a client.
- (7) The Commissioner may cancel an information notice by written notice to the authority on which it was served.
- (8) In this section “information” includes unrecorded information.

**Modifications etc. (not altering text)**

**C2** [S. 51](#) applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(5)(9)}

**Commencement Information**

**I2** [S. 51](#) wholly in force at 1.1.2005; [s. 51](#) not in force at Royal Assent, see [s. 87\(3\)](#); [s. 51](#) in force for certain purposes at 30.11.2002 by [S.I. 2002/2812](#), [art. 2\(d\)\(e\)](#); [s. 51](#) in force for certain further purposes at 1.1.2005 by [S.I. 2004/1909](#), [art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

**52 Enforcement notices.**

- (1) If the Commissioner is satisfied that a public authority has failed to comply with any of the requirements of Part I, the Commissioner may serve the authority with a notice (in this Act referred to as “an enforcement notice”) requiring the authority to take, within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements.
- (2) An enforcement notice must contain—
  - (a) a statement of the requirement or requirements of Part I with which the Commissioner is satisfied that the public authority has failed to comply and his reasons for reaching that conclusion, and
  - (b) particulars of the right of appeal conferred by section 57.
- (3) An enforcement notice must not require any of the provisions of the notice to be complied with before the end of the period within which an appeal can be brought

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against the notice and, if such an appeal is brought, the notice need not be complied with pending the determination or withdrawal of the appeal.

- (4) The Commissioner may cancel an enforcement notice by written notice to the authority on which it was served.
- (5) This section has effect subject to section 53.

#### Modifications etc. (not altering text)

- C3** S. 52 applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(6)(9)}

#### Commencement Information

- I3** S. 52 wholly in force at 1.1.2005; s. 52 not in force at Royal Assent, see s. 87(3); s. 52 in force for certain purposes at 30.11.2002 by [S.I. 2002/2812, art. 2\(e\)](#), s. 52 in force for certain further purposes at 1.1.2005 by [S.I. 2004/1909, art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122, art. 2](#)

### 53 Exception from duty to comply with decision notice or enforcement notice.

- (1) This section applies to a decision notice or enforcement notice which—
  - (a) is served on—
    - (i) a government department,
    - [<sup>F1</sup>(ii) the Welsh Assembly Government, or]
    - (iii) any public authority designated for the purposes of this section by an order made by the [<sup>F2</sup>Secretary of State], and
  - (b) relates to a failure, in respect of one or more requests for information—
    - (i) to comply with section 1(1)(a) in respect of information which falls within any provision of Part II stating that the duty to confirm or deny does not arise, or
    - (ii) to comply with section 1(1)(b) in respect of exempt information.
- (2) A decision notice or enforcement notice to which this section applies shall cease to have effect if, not later than the twentieth working day following the effective date, the accountable person in relation to that authority gives the Commissioner a certificate signed by him stating that he has on reasonable grounds formed the opinion that, in respect of the request or requests concerned, there was no failure falling within subsection (1)(b).
- (3) Where the accountable person gives a certificate to the Commissioner under subsection (2) he shall as soon as practicable thereafter lay a copy of the certificate before—
  - (a) each House of Parliament,
  - (b) the Northern Ireland Assembly, in any case where the certificate relates to a decision notice or enforcement notice which has been served on a Northern Ireland department or any Northern Ireland public authority, or
  - [<sup>F3</sup>(c) the National Assembly for Wales, in any case where the certificate relates to a decision notice or enforcement notice which has been served on—
    - (i) the Welsh Assembly Government,
    - (ii) the National Assembly for Wales, or
    - (iii) any Welsh public authority.]

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- (4) In subsection (2) “the effective date”, in relation to a decision notice or enforcement notice, means—
- (a) the day on which the notice was given to the public authority, or
  - (b) where an appeal under section 57 is brought, the day on which that appeal (or any further appeal arising out of it) is determined or withdrawn.
- (5) Before making an order under subsection (1)(a)(iii), the [<sup>F2</sup>Secretary of State] shall—
- (a) if the order relates to a Welsh public authority, consult [<sup>F4</sup>the Welsh Ministers],
  - [<sup>F5</sup>(aa) if the order relates to the National Assembly for Wales, consult the Presiding Officer of that Assembly,]
  - (b) if the order relates to the Northern Ireland Assembly, consult the Presiding Officer of that Assembly, and
  - (c) if the order relates to a Northern Ireland public authority, consult the First Minister and deputy First Minister in Northern Ireland.
- (6) Where the accountable person gives a certificate to the Commissioner under subsection (2) in relation to a decision notice, the accountable person shall, on doing so or as soon as reasonably practicable after doing so, inform the person who is the complainant for the purposes of section 50 of the reasons for his opinion.
- (7) The accountable person is not obliged to provide information under subsection (6) if, or to the extent that, compliance with that subsection would involve the disclosure of exempt information.
- (8) In this section “the accountable person”—
- (a) in relation to a Northern Ireland department or any Northern Ireland public authority, means the First Minister and deputy First Minister in Northern Ireland acting jointly,
  - [<sup>F6</sup>(b) in relation the Welsh Assembly Government, the National Assembly for Wales or any Welsh public authority, means the First Minister for Wales, and]
  - (c) in relation to any other public authority, means—
    - (i) a Minister of the Crown who is a member of the Cabinet, or
    - (ii) the Attorney General, the Advocate General for Scotland or the Attorney General for Northern Ireland.
- (9) In this section “working day” has the same meaning as in section 10.

#### Textual Amendments

- F1** S. 53(1)(a)(ii) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(2)** (the amendment coming into force immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F2** Words in s. 53 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 12(1)(a)**
- F3** S. 53(3)(c) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(3)** (the amendment coming into force immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))

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- F4** Words in s. 53(5)(a) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(4)(a)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F5** S. 53(5)(aa) inserted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(4)(b)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F6** S. 53(8)(b) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(5)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))

#### Commencement Information

- I4** S. 53 wholly in force at 1.1.2005; s. 53 in force at Royal Assent to the extent that it confers power to make an order, see s. 87(1)(m)(3); s. 53 in force for certain further purposes at 1.1.2005 by [S.I. 2004/1909](#), **art. 2** and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), **art. 2**

## 54 Failure to comply with notice.

- (1) If a public authority has failed to comply with—
- so much of a decision notice as requires steps to be taken,
  - an information notice, or
  - an enforcement notice,
- the Commissioner may certify in writing to the court that the public authority has failed to comply with that notice.
- (2) For the purposes of this section, a public authority which, in purported compliance with an information notice—
- makes a statement which it knows to be false in a material respect, or
  - recklessly makes a statement which is false in a material respect,
- is to be taken to have failed to comply with the notice.
- (3) Where a failure to comply is certified under subsection (1), the court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the public authority, and after hearing any statement that may be offered in defence, deal with the authority as if it had committed a contempt of court.
- (4) In this section “the court” means the High Court or, in Scotland, the Court of Session.

#### Modifications etc. (not altering text)

- C4** S. 54 applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(9)}

#### Commencement Information

- I5** S. 54 wholly in force at 1.1.2005; s. 54 not in force at Royal assent, see s. 87(3); s. 54 in force for certain purposes at 30.11.2002 by [S.I. 2002/2812](#), **art. 2(d)(e)**; s. 54 in force for certain further

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purposes at 1.1.2005 by [S.I. 2004/1909](#), [art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## 55 Powers of entry and inspection.

Schedule 3 (powers of entry and inspection) has effect.

### Modifications etc. (not altering text)

**C5** [S. 55](#) applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(9)}

### Commencement Information

**I6** [S. 55](#) wholly in force at 1.1.2005; [s. 55](#) not in force at Royal Assent, see [s. 87\(3\)](#); [s. 55](#) in force for certain purposes at 30.11.2002 by [S.I. 2002/2812](#), [art. 2\(d\)\(f\)](#); [s. 55](#) in force for certain further purposes at 1.1.2005 by [S.I. 2004/1909](#), [art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## 56 No action against public authority.

- (1) This Act does not confer any right of action in civil proceedings in respect of any failure to comply with any duty imposed by or under this Act.
- (2) Subsection (1) does not affect the powers of the Commissioner under section 54.

### Modifications etc. (not altering text)

**C6** [S. 56](#) applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(7)(9)}

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