



**HM Courts
& Tribunals
Service**

**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL
(INFORMATION RIGHTS) UNDER SECTION 58 OF THE FREEDOM OF
INFORMATION ACT 2000**

Appeal No: EA/2011/0018

BETWEEN:

GANESH SITTAMPALAM

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

CONSENT ORDER APPROVAL

PURSUANT to Rule 37(1) of the Tribunal Procedure (First-tier) (General Regulatory Chamber) Rules 2009 and upon reading the parties' agreed statement:

In accordance with the provisions of the above Rule, the Tribunal approves the consent order in this matter, the reasons for which are attached herewith.

Signed:

Andrew Bartlett QC

Tribunal Judge

Dated: 19 April 2011



IN THE FIRST-TIER TRIBUNAL (INFORMATION RIGHTS)

EA/2011/0018

BETWEEN:

GANESH SITTAMPALAM

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

CONSENT ORDER

Pursuant to rule 37(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, upon reading the parties' agreed statement (in Annex A),

IT IS ORDERED BY CONSENT THAT:

1. The Decision Notice FS50300151 dated 5 January 2011 be varied as set out in Annex B.
2. No further steps are required to be taken by the parties.
3. There be no order for costs.

Dated this 13th day of April 2011

Signed:

Ganesh Sittampalam

(Appellant)

Information Commissioner

(Respondent)

ANNEX A

Statement of reasons for consent order

1. This appeal concerns the Respondent's decision notice FS50300151 (the **Decision Notice**). The Decision Notice sets out at paragraph 2 the terms of the original information request made by the Appellant to the Cabinet Office.

2. In the Decision Notice, the Respondent decided that:

- a. the Cabinet Office had failed to comply with section 1(1)(a) of the Freedom of Information Act 2000 (**FOIA**) because it had failed to confirm or deny whether it held the information which had been requested; and
- b. by not complying with section 1(1) FOIA within the statutory time limit the Cabinet Office also breached section 10(1) FOIA.

3. The Respondent also stated that the Cabinet Office had 'responded' to the request promptly and within the statutory time limit. It is this finding that formed the sole part of the Appellant's appeal.

4. The Respondent now accepts that the reference to the promptness of the Cabinet Office's response is inappropriate. This is because there is no independent duty for a public authority to respond to a request for information aside from those obligations under section 1(1) FOIA.

5. In view of all the circumstances, the parties jointly submit that it is appropriate for these proceedings to be concluded by way of consent order to vary the Decision Notice in the terms set out in Annex B, and that it is appropriate for the Tribunal to consider their joint application without holding a hearing (as envisaged by rule 37(2)).

ANNEX B

1. The Decision Notice FS50300151 is varied as set out below:

- a. In paragraph 23 of the Decision Notice delete the words from 'In order to determine' to 'held by the Cabinet Office';
- b. Paragraphs 24-28 are deleted;
- c. Paragraph 29 becomes paragraph 24;
- d. At a new paragraph 25, insert:
'Yet, because the Cabinet Office failed to comply with its duty under section 1(1) FOIA within the statutory time limit, it also breached section 10(1) FOIA. Accordingly, however 'promptly' the Cabinet Office dealt with the request, it does not have any material effect on those findings and the Commissioner does not consider this point further.'
- e. Paragraphs 30 and 31 are deleted; and
- f. The first bullet point of paragraph 32 is deleted.

2. No further steps are required to be taken.