

FOIA s.12 – Cost of compliance and appropriate limit

Gerald James v IC & The Cabinet Office and three other Government Departments

EA/2006-0003-EA/2007/0007

25th September 2007

Cases:

Facts

The Appellant, formerly chairman of Astra Holdings and an important witness at the Scott Inquiry as to the sale of Arms to Iraq, requested of a series of government departments a copy of the submission made to Scott by Sir Nicholas Bonsor, formerly Chairman of the Defence Select Committee. The Cabinet Office (“CO”) held the whole Scott archive and was effectively the only relevant authority on the appeal. The CO admitted that it probably had the information, if it had ever existed, stated that it had undertaken a reasonable search but claimed that the task of locating it was much too great to be undertaken, with available knowledge of the archive, within the cost limit of £600. The other departments denied that they held it.

The IC, having inspected the archive, upheld the CO `s claim to the exemption.

Findings

The Tribunal was sharply critical of the CO `s management of the archive and the adequacy of its response to Mr. James` request, not least its failure to consult the Secretary to the Inquiry. However, it concluded that the CO had made its estimate in good faith and there was no clear evidence that it could have located the information within cost, even if it had acted efficiently.

Conclusion

The Tribunal dismissed the appeal, albeit with a strong hint that the CO should have another go and that it had failed in its duty to preserve the archive for public access.

Observations

Just before publication of the judgment, the CO wrote to the Deputy Chairman to say that it had now found the information sought – how is not yet known.

The Tribunal will reconvene.