

FOIA s.14(2) – Vexatious or repeated requests

FOIA s.17 – Refusal of request

Thomas Brodie MacClue v IC

EA/2007/0029

29th August 2007

Cases:

Facts

The Appellant had made various requests for information to “The Prime Minister and Office” apparently directed at his concern that certain Muslim clerics, who he considered acted against the country’s interests, were granted significant benefits which were denied to him, a disabled Scottish pensioner. The requests were treated as having been directed at the Cabinet Office. The only line of argument that was relied on was that the requests were substantially similar to ones that had been made previously by the Appellant, so that FOIA s.14(2) applied. The Decision Notice subsequently issued by the IC noted that the public authority had not responded to the earlier requests by disclosing the information requested but by explaining that it did not hold the information requested. It had explained that it had a defined remit and that the information requested was not held by it, although it might be held by other government departments.

The IC concluded that this response complied with the public authority’s obligations under the FOIA and that, as a reasonable interval had not elapsed since the previous request had been complied with, the public authority was entitled to rely on FOIA s.14(2). An issue had also arisen as to whether the public authority’s initial response to the request fell outside the 20 working day period in which a request for information should be complied with (under FOIA s.17(1)). The IC concluded that, as the public authority had previously informed the Appellant why his previous requests had been rejected, it would be unreasonable to require it to provide a further refusal notice within the statutory period.

Findings

The Tribunal expressed the view that the public authority had not relied on a number of other arguments that might have been available to it including the fact that some of the questions were clearly not requests for information at all, or were vexatious or related to information that would not be held by the Prime Minister’s Office, or sought information that was the personal data of a third party and therefore exempt from disclosure under FOIA s.40.

It concluded that various earlier requests for information had raised the same issues as those incorporated into the requests under consideration, albeit in a different format. It also concluded that the public authority had complied with FOIA ss.1 and 17 in the manner of its response to those earlier requests and that by the time that it received the request under consideration it had already complied with at least one request which

was substantially identical or substantially similar. The time that had elapsed since compliance with the previous requests was not long enough for it to be reasonable to expect the public authority to treat it as a new request. The public authority was therefore entitled to rely on FOIA s.14(2) and reject the request.

On the question of whether the public authority had responded to the request in time, the Tribunal agreed with the IC's conclusion that it did. Under FOIA s.17(5) a public authority wishing to rely on section 14 must notify the person making the request of that fact within 20 working days. However, s.17(6) says that this requirement does not apply if the public authority has already given such a notice in relation to a previous request and it would in all the circumstances be unreasonable to expect it to serve a further notice in relation to the current request. It followed from the Tribunal's conclusion that a previous notice had been given that it would not be reasonable to have expected the public authority to have given a further notice, in response to the request under review, within the statutory time limit.

Conclusion

The appeal was dismissed.