

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 May 2021

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested specimen certificates for each register maintained by the General Register Office. The Home Office agreed to disclose electronic specimen certificates, but to date it has not done so.
2. The Commissioner's decision is that the Home Office has breached section 1 and section 10 of the FOIA by failing to disclose the requested information within the statutory time for compliance.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Disclose the electronic specimen certificates. The complainant has confirmed she requires copies of all long and short certificates, but not bilingual or certificates relating to translations. The disclosure should be made to the 'What Do They Know' web page through which the request was made.
4. The Home Office must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Background

5. The General Register Office (GRO) is part of Her Majesty's Passport Office, and it maintains official information on all births, adoptions, civil partnerships, marriages and deaths in England and Wales¹.
6. Although the complainant's initial correspondence was with the GRO and HM Passport Office, the public authority for both is the Home Office.

Request and response

7. On 9 May 2020, the complainant wrote to the GRO and requested information in the following terms:

"Please list all of the registers which are maintained [sic] the GRO; examples include Gender Recognition Register, Live-Births Register, Marriage Register, Abandoned Children Register, etc.

Please provide a specimen certificate for each register; including "short" and "long" form where applicable.

Please also provide details including costs on how to obtain a certified copy of an extract from each register; including "short" and "long" versions."

8. HM Passport Office responded to the request on the GRO's behalf on 28 May 2020. It responded to the first and third parts of the request as follows: it said that information about the registers maintained by the GRO, and how to obtain a certified copy of an extract from each register, was exempt under section 21(1) (information accessible to applicant by other means) of the FOIA. It provided a link to where the information could be found.
9. For the second part of the request, it said that specimen certificates were exempt from disclosure under sections 31(1)(a) and (e) (law enforcement) of the FOIA, on the grounds that their disclosure would, or would be likely to, prejudice the prevention and detection of crime and the operation of immigration controls.

¹ <https://www.gro.gov.uk/gro/content/>

10. The complainant requested an internal review of the decision to refuse to provide specimen certificates on 28 May 2020. She argued that sections 31(1)(a) and (e) did not apply because copies of various specimen certificates were already in the public domain. She provided links to specimen copies of passports, birth, marriage and death certificates and to other formal documents.
11. The Home Office responded on behalf of HM Passport Office on 21 September 2020. It upheld the application of sections 31(1)(a) and (e) of the FOIA, saying that the complainant had requested information which was not in the public domain.

Scope of the case

12. The complainant contacted the Commissioner on 8 August 2020 to complain about the way her request for information had been handled. She wished to challenge the application of sections 31(1)(a) and (e) to refuse the second part of the request.
13. During the Commissioner's investigation, the Home Office changed its position with regard to the second part of the request. It explained that it held paper and electronic specimen certificates. It maintained that the exemptions had been correctly applied to withhold paper specimens, which are blank hard copy certificates, taken out of circulation and stamped on the front with the word 'SPECIMEN'. It said:

"...all certificates contain a unique serial number and are printed on special paper containing multiple security features, some of which are woven into the paper itself. Such a document would offer valuable information to anyone wishing to forge certificates. To a fraudster, the 'look' and 'feel' of a document is extremely important."

14. However, the Home Office said that it could provide electronic specimens of certificates:

"While GRO has provided specimen copies of certificates to use in literature in the past, it no longer does so. The two links provided by [the complainant] show images of some GRO certificates, not always in full and not up-to-date versions in some cases. The full range of certificates in relation to registration events is not in the public domain at all. The certificates referenced in the Family History document are not modern certificates and do not show, in detail, the security features which current versions of certificates contain."

Notwithstanding that we do not accept [the complainant]'s arguments, and that we have some concerns about making a set of electronic specimen certificates freely available, we have concluded

that any possible prejudice does not meet the threshold for the application of section 31(1)(a) and (e). We therefore propose to ask [the complainant] whether she wishes to receive electronic versions of the certificates. I understand that there are 113 specimen certificates that cover various areas of registration, including long, short, bilingual etc. These specimens will take time to convert to electronic copies and we want to avoid wasting resources on versions which [the complainant] does not require."

15. On 31 March 2021 the complainant confirmed to the Home Office that this approach would be acceptable to her and that she required electronic specimens of all long and short certificates, but not bilingual or certificates relating to translations. The paper specimen certificates have therefore been excluded from the scope of this decision notice.
16. As of the date of this decision notice, the Home Office has not disclosed to the complainant the electronic specimen certificates.
17. The analysis below considers the Home Office's compliance with section 1 and section 10 of the FOIA, in respect of the complainant's request for the electronic specimen certificates.

Reasons for decision

Section 1 – general right of access

Section 10 - time for compliance

18. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
19. Section 10(1) of the FOIA states that on receipt of a request for information, a public authority should respond to the applicant within 20 working days.
20. The complainant submitted her request on 9 May 2020. The Home Office has confirmed that it holds information falling within the scope of the request that it does not consider to be covered by a non-disclosure exemption, but it has failed to disclose it to the complainant.
21. The Home Office has therefore breached section 1(1)(b) and section 10(1) of the FOIA.
22. The Commissioner now requires the Home Office to take the action specified in paragraph 3, above.

Other matters

23. While the Commissioner recognises that the Home Office's response to her set out a pragmatic way forward which satisfied the complainant, she is disappointed that it was necessary for her to issue an information notice to obtain that response. She is further disappointed that, having promised to disclose information, the Home Office has not done so within a reasonable timeframe and that it has not responded to her request for an update on this point.
24. The Commissioner uses intelligence gathered from individual cases to inform our insight and compliance function. This aligns with the goal in our draft "Openness by design"² strategy to improve standards of accountability, openness and transparency in a digital age. The Commissioner aims to increase the impact of FOIA enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in our "Regulatory Action Policy"³.

² <https://ico.org.uk/media/about-the-ico/consultations/2614120/foi-strategy-document.pdf>

³ <https://ico.org.uk/media/about-the-ico/documents/2259467/regulatory-action-policy.pdf>

Right of appeal

25. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

26. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

**Samantha Bracegirdle
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**