

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 March 2016

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

Decision (including any steps ordered)

1. The complainant requested information relating to the issuing of an allegedly false passport to a named individual. The Home Office responded to this request by asking the complainant to provide evidence of his identity, evidence that the individual named in the request is deceased, a signed version of his request and his postal address. It stated that the request would not be progressed without the provision of those materials.
2. The Commissioner's decision is that the request was valid for the purposes of section 8 of the FOIA without the provision of any of the materials requested by the Home Office and that it was not permitted to refuse to comply with the request unless those materials were provided. In failing to respond to the request within 20 working days the Home Office breached section 10(1) of the FOIA. It is now required to respond to the request.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Respond to the request.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The request was made to FOIRequests@homeoffice.gsi.gov.uk on 11 January 2016 and was worded as follows:

"I would like documents concerning a false British passport that was issued to an individual named SYLVIA ANN HODGKINSON but in reality was used by US fugitive ELAINE PARENT. I understand that both individuals are now deceased. SYLVIA ANN HODGKINSON died sometime in 1988-89 whilst ELAINE PARENT died in 2002, I have attached a copy of her death certificate.

I also learned that on 28/2/96, the UK Embassy in Washington, DC informed the Department of Security Services, a branch of the US State Department, that a copy of SYLVIA ANN HODGKINSON's passport was held in London in the Passport Office Suspicious Archives. This passport had the DOB of 27th March, 1946 and was sent to the State Department, Washington, DC before being returned to HMG.

I would be very interested in any surviving documents concerning this aspect of the investigation, a copy of any passports should they still exist in your archive and any other relevant documents concerning this case."

6. On 12 January 2016, the complainant received a response from DPA.Queries@hmpo.gsi.gov.uk asking that he supply hard copies of the following:

"i. Evidence of your identity, such as a copy of your passport or driving licence.

ii. Evidence that the data subjects are deceased; this should take the form of original death certificates for those persons whose information is requested. Any original documents will be returned to you.

iii. A signed request for the information you are seeking including your address for our written reply."

7. The complainant was advised that his information request would not be proceeded with unless he provided these materials.

Scope of the case

8. The complainant contacted the Commissioner on 12 January 2016 to complain about the inappropriate response to his information request. The Commissioner wrote to the Home Office on 1 February 2016 and asked it to provide a fresh response to the complainant's request that

complied with the FOIA within 10 working days. The Home Office did not respond.

Reasons for decision

Sections 8 and 10

9. Section 8(1) of the FOIA sets out the requirements for a request to be valid for the purposes of that Act. These include that it must be in writing, state the name of the applicant and an address for correspondence. The request in this case met all of these requirements and so was valid for the purposes of the FOIA.
10. The Home Office requested three additional pieces of information, none of which it was entitled to. First, where a public authority has genuine concerns about whether a requester has correctly identified themselves, they may ask for proof of identity. The Commissioner's approach is that, where there is no obvious indication that the requester has not used their real name, there is no need for an authority to check the requester's identity. In this case, given that the Commissioner is aware that the complainant has made a number of previous information requests to the Home Office and is not aware of any question about the complainant's identity having been raised in relation to any of his previous requests, there was no reason for the Home Office to ask for proof of the complainant's identity.
11. Secondly, requiring evidence that the individual named in the request was deceased was not permissible under the FOIA. In any event, the complainant stated when making his request in this case that he had attached a copy of that individual's death certificate. Also, the previous requests that the complainant has made to the Home Office have in many cases related to that individual. Whether or not that individual is living had undoubtedly been thoroughly established by the time of the request above.
12. Thirdly, a request made by email is valid for the purposes of the FOIA, as is an email address as the address for correspondence. The Home Office was not entitled to require the complainant to submit a signed request or to provide a postal address.
13. Section 10(1) of the FOIA requires that a response to an information request be sent within 20 working days of receipt. By failing to respond to the request within 20 working days of receipt on the basis of requiring the complainant to provide materials that it was not entitled to, the Home Office breached the requirement of section 10(1). At paragraph 3

above, it is now required to provide a response to this request that complies with the FOIA.

Other matters

14. Given the resources available to it, its familiarity with the requirements of the FOIA and that it has dealt with a number of requests from the same applicant previously, the Commissioner is surprised that this request was handled so poorly. He is also disappointed that this was not remedied as soon as these errors were brought to the attention of the Home Office by the ICO.
15. It appears that this may have occurred as a result of this request being referred to the incorrect location for dealing with requests made under the FOIA. If that was the case, the Home Office should ensure that no future requests made to FOIRequests@homeoffice.gsi.gov.uk are referred incorrectly. It should also ensure that staff responsible for DPA.Queries@hmpo.gsi.gov.uk are aware of the requirements of the FOIA.

Right of appeal

16. 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@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

17. 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.
18. 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

Ben Tomes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF