

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 August 2022

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

Decision (including any steps ordered)

1. The complainant requested information about regulations relating to birth certificates.
2. The Commissioner's decision is that the Home Office does not hold further information within the scope of the request.
3. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

4. On 4 May 2021, the complainant wrote to the General Register Office (GRO) and requested information in the following terms:

"1) Why have signatures been obsolete from birth certificates from 2009 - date?

2) Who authorised the GRO and local registers [sic] to type names of informants in signature box?

3) Why has the GRO and local registry offices stopped producing exact copies of birth certificates?

It is claimed that the informants sign the register page (that is same template as the birth certificate) and that's the GRO's copy

but why isn't that copy the exact copy when issuing the birth certificate!"

5. The request was made using 'whatdotheyknow'.
6. HM Passport Office responded on 17 May 2021. In its response it referenced the Births and Deaths Registration Act 1953 (BDRA) and The Registration of Births and Deaths (Electronic Communications and Electronic Storage) Order 2006.
7. The complainant expressed dissatisfaction with that response on 24 May 2021.
8. Following an internal review, the Home Office wrote to her on 4 August 2021. While it concluded that the Home Office's initial response - that the GRO held relevant information and disclosed it in full - was correct, it did, however, provide some additional information about the legislative and policy requirements, and White Paper objectives, relating to birth certificates.

Scope of the case

9. Following earlier correspondence, the complainant provided the Commissioner, on 14 August 2022, with further information about the nature of her complaint. She disputed that the Home Office had provided an adequate or satisfactory response to her request.
10. The Commissioner is mindful that the request, having been made to the GRO, was variously responded to by HM Passport Office and the Home Office. The Home Office wrote to the Commissioner explaining that as HM Passport Office is part of the Home Office, he should correspond with the Home Office in relation to the handling of this request.
11. The Commissioner progressed matters on that basis.
12. While the Commissioner is aware that, in the course of the correspondence between the complainant and the Home Office, there are references to other legislation, it is not within his remit to consider or comment on that legislation.
13. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part I of FOIA.
14. Accordingly, the analysis below considers whether the Home Office holds further information within the scope of the request.

Reasons for decision

Section 1 general right of access

15. Section 1 of FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him”.

16. In scenarios such as this, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.

17. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

18. The request in this case comprises questions. The Commissioner accepts that a question can be a valid request for information.

19. The complainant disputes that the Home Office has provided a satisfactory response. The Commissioner has therefore sought to determine whether, on the balance of probabilities, at the time of the request, the Home Office held further information within the scope of the request.

20. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. He will also consider, where applicable, the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, he will consider any other information or explanation offered by the public authority which is relevant to his determination.

21. The Commissioner's role is not to consider whether a public authority should hold information that has been requested but whether, on the balance of probabilities, it does or does not hold it.

22. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the information that a

complainant believes it holds, it is seldom possible to prove with absolute certainty that the public authority holds no further relevant information.

23. In his guidance, the Commissioner recognises that FOIA only applies to information that a public authority already holds in recorded form at the time of a request.
24. In reaching his decision in this case, the Commissioner has taken into account the actual wording of the questions that comprise the request for information. He has also taken account of the views put forward by the complainant and the explanations provided by the Home Office.
25. The Commissioner accepts that the requested information is clearly of interest to the complainant. However, having considered the Home Office's response, and on the basis of the evidence he has seen, the Commissioner is satisfied that, on the balance of probabilities, the Home Office did not hold further information falling within the scope of the complainant's request.
26. He is therefore satisfied that the Home Office has complied with the requirements of section 1 of FOIA.

Right of appeal

27. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.
29. 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
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