

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 1 June 2023

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

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to his family from the Home Office. The Home Office advised the complainant that no information is held.
2. The Commissioner's decision is that, on the civil standard of the balance of probabilities, the Home Office holds no recorded information within the scope of the request. No steps are required as a result of this notice.

#### Request and response

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3. On 20 July 2022, the complainant wrote to the Home Office and requested the following information:

"Having written you prior, I herein write you again asking once more for an ancestral search for my Father Mr [name redacted] (born sixteenth of June nineteen thirty eight) to which you initially responded with a report of his British Passports (see attachment) for which I remain thankful.

With your report of this record in hand I kindly ask if you would check for a registration as a British Citizen / Subject / ... by either of my grandparents on either side as follows below:

[various names, dates of birth and documents redacted].

Your assistance in this will better me for clarity on prospects and I appreciate as before your kind response remaining thankfully so".

4. On 4 August 2022, following further correspondence, the complainant provided various documents to assist with a search. These included copies of passports and death certificates.
5. On 8 August 2022, the Home Office responded. It advised the complainant that it had "carried out a thorough search", but said that it did not hold passport records for the other named parties.
6. On 29 August 2022, the complainant requested an internal review. He said that he considered that he had: "...provided adequate evidence to suggest that there should be records available for my family the subjects concerned in the provided documentation".
7. The Home Office provided an internal review on 21 October 2022 in which it maintained its position.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 1 November 2022 to complain about the way his request for information had been handled. He said:

"My complaint is that i believe my efforts to establish a direct line to UK Nationality are being hampered as i have only been given my fathers British passport records but no assistance furthermore to the claim has been afforded me by laying out the needed documentation to establish that indeed my grandfather through his father [name redacted] qualified through his father a British male as a British national who was then able to pass this nationality down to my mother his daughter who would then pass this British nationality down to myself her son. To add to this and further strengthen the claim, my fathers British passport records".

9. He also said:

"My request is therefore that given the last two years of communication between myself, the home office, the freedom of information team and now the information commissioner with little or no resolve that there would be an effort to examine all documentation surrendered by myself together with communication to establish a route towards a British passport, ancestral visa or certificate of entitlement, right of abode".

10. Whilst the Commissioner understands the complainant's frustration, it should be noted that such action falls outside the Commissioner's jurisdiction. 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 1 of FOIA. FOIA is concerned with the transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

11. The Commissioner will therefore consider whether or not, on the civil standard of the balance of probabilities, the Home Office holds the information requested.

## **Reasons for decision**

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### **Section 1 – General right of access**

12. Section 1 of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds that information and, if so, to have that information communicated to them.
13. In this case, the complainant suspects that the Home Office holds information from which it could answer the request. The Home Office's position is that it does not.
14. In cases where there is some dispute about the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
15. The Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the public authority to check whether the information is held and any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held. 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 proof of the balance of probabilities.
16. Therefore, the Commissioner has sought to determine whether, on the balance of probabilities, the Home Office holds any recorded information within the scope of the request. Accordingly, he asked the Home Office

to explain what enquiries it had made in order to reach the view that it did not hold the information.

17. The Home Office explained:

"HMPO [His Majesty's Passport Office], including the team which carried out the original searches, have provided additional information on the background and on the way the searches were carried out.

HMPO holds records for British Nationals both on Microfiche, Digital Microfiche and on the current electronic computer system. However, if someone was born in a former colony HMPO will only hold records of the individual from the date of independence of the country.

All passports which were issued to British Overseas Territories Citizens were retained by the country in question.

HMPO's digitised microfiche records are from 1898-1928 and 1972-1996. Microfiche records are from 1929 - 1971. The current electronic system is from 1996 to the present".

18. Regarding searches it has undertaken it explained:

"When a request is received by the Peterborough Searching Team (PST), they first look at the date that the individual died. This is to help identify where to search for the requested information.

For [name redacted], PST would have started searching on the digital microfiche records ... after which they would move onto the microfiche machines. They would then only search back to 1964 as this is when Zambia (formerly Northern Rhodesia) became independent from the UK.

For [name redacted] we would have started searching on the current electronic system and if no records were located, we would have moved to the digital microfiche machine and then to the microfiche machine. Again, we would only search back to 1964 as this is when Zambia (formerly Northern Rhodesia) became independent from the UK.

A search was made on HMPO's passport records for [name redacted]'s great grandfather [name redacted] born 3 December 1874. As no date of death was provided, the search team confirmed they searched HMPO passport records from 1898 until 1974.

For both the digital microfiche and microfiche records HMPO would be looking initially for the surname of [name redacted] and then forenames. Every record that would have the forename of [name redacted] and [name redacted] would be checked looking at date and place of birth. Once HMPO had confirmed that there is no passport being issued in a particular year, they would move to the previous year and start the process again”.

19. The Home Office further explained to the Commissioner that:

- “About 10 years ago there was a project that was started where all of the microfiche records we hold were to be digitised. This process was started but stopped some years later, but all records were not digitised.
- So we do hold records from 1898 to the present date, however, how these are accessed varies depending on where the file is stored.
- The records from 1929-1971 are all on [microfiche] tapes where we have to feed these into a specific machine to search for the passport records.
- The records from 1898-1928, 1972–1996 are all on the computer in the storage system we have. These are the digitised records that were formally on the actual [microfiche] tapes which were fed into the machine for us to then search.
- From 1996 all passport records are recorded on the current working system (AMS/DAP)”.

### **The Commissioner’s conclusion**

20. 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 it holds no relevant information. However, as set out in the paragraphs, above, the Commissioner is required to make a finding on the balance of probabilities.

21. The Commissioner considers that the Home Office contacted the relevant department to consider whether or not any information was held in respect of the request. It has explained its reasons for believing that any relevant information, if held, would be held in particular locations, and that it has searched all possible storage systems. Based on the information provided above which evidences the searches that have been undertaken, the Commissioner is satisfied that, on the civil standard of the balance of probabilities, no recorded information within the scope of the request is held. He is therefore satisfied that the Home Office has complied with the requirements of section 1 of FOIA in this case.

## Right of appeal

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22. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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 .....**

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