

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 November 2023

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

Decision (including any steps ordered)

1. The complainant requested passport information about a deceased individual from HM Passport Office, which is part of the Home Office. The Home Office said that it held no information. The complainant persisted and, on its fourth consideration of the matter, the Home Office located and disclosed the requested information.
2. The Commissioner's decision is that by failing to disclose information within the 20 working day time for compliance, the Home Office breached sections 1(1)(b) and 10(1) of FOIA.
3. The Commissioner does not require further steps as a result of this decision.

Request and response

4. On 20 May 2023, the complainant wrote to the Home Office and requested information in the following terms:

"This request is made under the Freedom of Information Act 2000.

Please provide me with copies of all information relating to passports held by [first name, second name, third name, surname], formerly [maiden name], otherwise [previous married name], born 13th October 1912 in Wycombe Marsh, Buckinghamshire, England. Please also include any additional information [sic] that you may hold on the above named individual.

I have included a copy of [first name, second name, third name, surname]'s death certificate as evidence that the information is not subject to the Data Protection Act 2018."

5. The Home Office responded on 26 May 2023. It explained that HM Passport Office does not hold copies of UK passports; however, it does hold records of UK passports issued. It said it had carried out searches using the information provided and could find no passport records for the named individual.
6. The complainant requested an internal review on 25 June 2023, stating:

"I am certain that [first name, second name, third name, surname] travelled abroad between the years c.1961 and c.1974. She visited Jerusalem and Italy as well as some other countries. I am therefore certain that you should hold information relating to passports.

...I advise that [first name, second name, third name, surname] may have reversed her first two names, being known as [second name], rather than [first name]. I can only assume that your search was not sufficient and believe a passport was a requirement for overseas travel during the years stated above."

7. The Home Office provided the outcome of the internal review on 17 August 2023. It confirmed that it had been unable to locate passport information for the individual. As regards the complainant's point about travel, it suggested that the individual might have held a British Visitor's Passport¹ (BVP). It explained that it did not hold records on BVPs. It did not clarify whether the first and second names had been reversed in any searches conducted.
8. On 17 August 2023, the complainant repeated his request for information, with a slight revision to the name, as follows:

"Please provide me with copies of all information relating to passports held after 1960 by [second name, surname], born 13th October 1912 in Buckinghamshire, England. Please also include any additional information that you may hold on the above named individual. If information is located, as well as extracting the information from the index cards in tabular format, please also provide copies of the index cards themselves."

¹ <https://www.gov.uk/government/publications/types-of-british-passports/types-of-british-passports-accessible#types-of-passport>

9. The Home Office responded on 29 August 2023, stating:

“Further to your Internal Review outcome, I confirm again His Majesty’s Passport Office does not hold a passport record for [second name, surname], in the details provided.”

10. It again referred the complainant to the possibility that the individual had travelled under a BVP.

11. The complainant replied to the Home Office on 29 August 2023. Referring to its comment about the earlier internal review, he said he believed the internal review had not taken account of his explanation that the first and second names might have been reversed, or that the individual had travelled to a location outside Europe, which would not have been permitted under a BVP.

12. On 5 September 2023, the Home Office wrote to the complainant. It had located information about three passports held by the named individual, which it disclosed. The information comprised passport number, date and place of issue, name on passport (which was in the format the complainant had suggested in his internal review request ie first and second names reversed), passport notes and a copy of an index card.

Scope of the case

13. The complainant initially contacted the Commissioner on 29 August 2023 to complain about the way his request for information had been handled.

14. Following receipt of the requested information, he asked the Commissioner to issue a decision notice considering the Home Office’s overall handling of the request of 20 May 2023.

15. The Commissioner has commented on the internal review in the ‘Other matters’ section.

Reasons for decision

Section 1 – General right of access

Section 10 - Time for compliance

16. Section 1(1)(a) of FOIA states that a person who asks for information is entitled to be informed whether the information is held. If it is held, section 1(1)(b) states that the person is entitled to have that information communicated to them.

17. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond within 20 working days.
18. In this case, the complainant requested information on 20 May 2023 which was eventually disclosed to him 74 working days later, on 5 September 2023.
19. In its letter of 5 September 2023, the Home Office told the complainant:

“Requests for information on deceased individuals can be made under the Freedom of Information Act 2000, if we have evidence such as a copy of a death certificate which establishes the individual is deceased, we may be able to disclose the requested information provided that it is not exempt for some other reason under the Act. For example, we may be unable to release information under section 40(2) of the FOI Act which covers personal data related to a third party.

Please note we conducted searches on the names of your mother as provided on the death certificate as we can only disclose information on those whom we have evidence are deceased. This is also to ensure we are able to identify the correct details held in our records.

Following your email of 29 August, we conducted a further search of our records for any passports issued in the name [second name, surname] and found the following information, given in the table below.”

20. The complainant felt that the Home Office had placed too much emphasis on the information on the death certificate in this case:

“The reasons in that response of 5th September for not previously providing the information are quite nonsensical. Someone applying for information would not need to provide a death certificate for an individual born in 1912. This is due to the 100 year rule, although a death certificate was initially provided as a courtesy.”
21. He also noted the Home Office’s reference to the individual as being his mother, when she was not, and its repeated citing of the BVP, which could not have applied. He considered these to be symptomatic of its general lack of attention to detail when dealing with the request.
22. The Commissioner notes that the Home Office was asked to disclose information on an individual born in 1912. For it to be safe to assume an individual is deceased, the Commissioner follows the National Archives’

recommendation of applying a life expectancy of 100 years². It is highly unlikely that someone born in 1912 would still be alive. The Commissioner is therefore not persuaded that the Home Office's adherence to the details on a death certificate was necessary in this case. Indeed, he notes that the Home Office went on to disclose passport information showing the individual's name in the reversed format, when no corresponding death certificate had been provided by the complainant.

23. That being the case, the Commissioner is satisfied that the Home Office had the information it needed to locate the requested information at the time it conducted the internal review (ie on 25 June 2023, when the complainant clarified that the individual might have reversed the order of her first and second names). It should have been possible for it to have searched, located and disclosed the information at that point. It is noted that the complainant's correspondence of 29 August 2023 (which eventually prompted the disclosure) shed no new light on the request.
24. By failing to disclose the information it held within the 20 working day time for compliance, the Home Office breached sections 1(1)(b) and 10(1) of FOIA.
25. The Commissioner has made a separate record of these breaches for monitoring purposes.

Other matters

Section 45 – internal review

26. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 of FOIA sets out, in general terms, the procedure that should be followed. The code states that internal reviews should provide a fair and thorough review of procedures and decisions taken and pay particular attention to concerns raised by the applicant.
27. As explained in paragraph 6, when requesting an internal review, the complainant told the Home Office that the first and second names may have been reversed. It does not appear that the Home Office took account of this when conducting the internal review. Had it does so, the

² <https://cdn.nationalarchives.gov.uk/documents/information-management/dp-code-of-practice.pdf>

information would likely have been located and disclosed and the complainant would not have been put to the trouble of continuing to pursue the disclosure of information he had good reason to believe the Home Office held.

28. The Commissioner therefore finds the Home Office failed to pay sufficient attention to the concerns raised by the applicant when conducting the internal review and that it did not conform with the section 45 code of practice in this regard.
29. The Commissioner would remind the Home Office of the opportunity an internal review presents for a reconsideration of matters, as it may enable a requester's concerns to be resolved without the need for a complaint being made to the ICO.

Right of appeal

30. 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

31. 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.

32. 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
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SK9 5AF