

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 14 March 2013

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

#### **Decision (including any steps ordered)**

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1. The complainant requested details of what border staff see when a passport is scanned. The Home Office refused to disclose this information and cited the exemptions provided by the following sections of the FOIA: 31(1)(a) (prejudice to the prevention or detection of crime) and 31(1)(e) (prejudice to the operation of the immigration controls).
2. The Commissioner's decision is that neither of the exemptions cited are engaged and so the Home Office should have disclosed this information.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Disclose to the complainant the requested information.
4. The public authority 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.

#### **Request and response**

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5. On 11 July 2012 the complainant wrote to the Home Office and made the following information request:

*"My request is on presenting at passport control entering the UK once a passport has been scanned by the UK border staff what information is shown on the screen e.g NAME, DOB ETC."*

6. The Home Office responded on 1 August 2012. The complainant was provided with a brief description of the information seen when a passport is scanned, but more detailed information was withheld under the exemptions provided by sections 31(1)(a) (prejudice to the prevention or detection of crime) and 31(1)(e) (prejudice to the operation of the immigration controls).
7. Following an internal review the Home Office wrote to the complainant on 20 August 2012. It stated that the citing of sections 31(1)(a) and 31(1)(e) was upheld.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 20 August 2012 to complain about the way his request for information had been handled. The complainant indicated at this stage that he was dissatisfied with the reasoning given for the refusal of his request.

### **Reasons for decision**

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#### **Section 31**

9. Section 31(1)(a) provides an exemption for information the disclosure of which would be likely to prejudice the prevention or detection of crime. Section 31(1)(e) provides the same for information that would be likely to prejudice the operation of the immigration controls. Consideration of these exemptions is a two-stage process. First, the exemptions must be engaged as a result of prejudice being likely to occur. Secondly, these exemptions are qualified by the public interest, which means that, unless the public interest in the maintenance of the exemptions outweighs the public interest in disclosure, the information should be disclosed.
10. Owing to what the analysis of whether the exemptions are engaged reveals about the withheld information, it has been necessary to include this analysis in a confidential annex supplied with this notice to the Home Office only. This is in order to preserve the possibility of a meaningful appeal to the First-tier Tribunal (Information Rights) for the Home Office.

11. The conclusion of this analysis is that the Commissioner does not accept that disclosure of this information would be likely result in prejudice to either the prevention or detection of crime, or to the operation of the immigration controls. As this conclusion has been reached at this stage it has not been necessary to go on to consider the balance of the public interest. The Home Office is required at paragraph 3 above to disclose this information.

## Right of appeal

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12. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

13. 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.
14. 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 .....**

**Gerrard Tracey  
Principal Adviser  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**