

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 June 2014

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

Decision (including any steps ordered)

1. The complainant requested information about access to civil registers held in the offices of Superintendent Registrars. The Home Office provided some information relevant to the subject matter but denied holding the requested information. During the Commissioner's investigation the Home Office confirmed that it does not hold information within the scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the requested information is not held and therefore he requires no further action to be taken.

Request and response

3. On 28 February 2014 the complainant requested information of the following description:
"I wish to make a Freedom of Information request to ask the full reasons why public access to civil registers held in the offices of Superintendent Registrars was stopped in 1973 by a direction from the Registrar General when it had been allowed since 1837. There was not change in the law to support the change of access".
4. The Home Office responded on 31 March 2014. It provided him with some information relevant to his request. It also told him:
"We are not aware of any directive given by the Registrar General in 1973 which referred to this statutory provision".

5. The complainant requested an internal review on 7 April 2014. In that correspondence he said:

"I have been informed by a number of Superintendent Registrars across the country that access was stopped after a directive by the Registrar General and I wish to know the wording of that directive. A number of the Superintendent Registrars withdrew access to the registers in 1973 with more withdrawing access in 1974 leaving one or two which still allow access to registers today. There is nothing in the 1836 Act which prevents public access to registers under the control of Superintendent Registrars, in fact the Royal Commission on Public Records (1914) stated that it was the evident intention of the originating legislation in 1836 that the registers should be open. Your reticence to provide the wording simply makes me more convinced that the withdrawal of access was another unlawful move (such as the unlawful claim on the 1971 census that the census would be locked away for 100 years) by Registrars General over the years".

6. The Home Office sent him the outcome of its internal review on 11 April 2014. It revised its position, saying that the Home Office should have refused to comply with the request on the basis that it was not a valid request.

Scope of the case

7. The complainant contacted the Commissioner on 17 April 2014 to complain about the way his request for information had been handled.
8. During the course of the Commissioner's investigation, having reconsidered its interpretation of the wording of the request, the Home Office confirmed its original position – that no information is held. In other words, it was no longer arguing that the request is not a proper request within the terms of the FOIA.
9. The Commissioner is mindful that, by way of background to his request, the complainant has made reference to the legislation governing access to local registers held by superintendent registrars.
10. It is not within the Commissioner's remit to comment on the access arrangements to such registers. His 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 the Freedom of Information Act 2000 (the FOIA).

11. The Commissioner considers the scope of his investigation in this case to be whether or not the Home Office holds information within the scope of the request.

Reasons for decision

Section 1 general right of access

12. 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."

13. In correspondence with the Commissioner, the Home Office said:

"The original response stated in effect that the requested information was not held, because HM Passport Office (which in organisational terms covers the General Register Office (GRO)) was not aware of any such direction from the Registrar General".

14. As is his practice in a case such as this, the Commissioner asked the Home Office to respond to him, including with respect to:

- the searches it carried out for information falling within the scope of the request and the search terms used;
- whether any recorded information relevant to the scope of the complainant's request had ever been held but had been deleted/destroyed; and
- whether the Home Office has a business purpose for which the requested information should be held.

15. In its substantive response the Home Office explained the searches that had been conducted. With respect to the nature of the searches conducted, the Home Office confirmed that *"most of GRO's records for that period are hard copy"*. With respect to whether the information, if it were held, would be held as manual or electronic records, it advised:

"Likely to be manual records from the 1970s. Some have been copied electronically (e.g the GRO circulars)".

16. The Commissioner has considered the nature of the searches that have been conducted. He has also considered the Home Office's reasons for saying that no relevant information is held. For example, the age of the requested direction (if such a direction exists) and GRO's record management policy.
17. Having considered the Home Office's response, and on the basis of the evidence provided to him, the Commissioner is satisfied that on the balance of probabilities the Home Office does not hold the requested information.

Other matters

18. The internal review process provides the opportunity for a public authority to reconsider its handling of the request. In this case, however, it appears that it was not until the Commissioner had commenced his investigation that the Home Office considered the issues raised by the complainant in his internal review request.
19. The Commissioner would take the opportunity to remind the public authority of its responsibility when, as in this case, an applicant complains about the authority's response to his or her request.

Right of appeal

20. 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: GRC@hmcts.gsi.gov.uk

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

21. 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.
22. 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

Jon Manners
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