

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 01 May 2013

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

Decision (including any steps ordered)

1. The complainant submitted requests for information about British citizenship applications from India to the Home Office on 24 November 2012. No substantive response has been provided to these requests. The Information Commissioner's decision is that the Home Office did not deal with the request for information in accordance with section 10(1) of the FOIA by failing to provide a substantive response to the requests within the statutory timeframe of 20 working days.
2. The Information Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Provide a fresh response to each of the complainant's information requests that is compliant with the requirements of sections 1 and 17 of the FOIA.
3. 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.

Background

4. The complainant initially submitted a four part request for information relating to British citizenship applications from India on 8 May 2012. This request was answered by the Home Office on 31 May 2012 and it answered each of the four parts.

5. The complainant requested an internal review on the basis that he considered the response to be unclear and insufficient. The Home Office provided the result of its internal review on 28 June 2012. Whilst commenting that it was questionable as to whether the whole of the request constituted a request for information under the FOIA, the review found that the Home Office had provided a proper response to the complainant.
6. A series of email exchanges followed after the review result, still on the same subject matter, culminating in the requests of 24 November 2012.

Request and response

7. The complainant wrote to the Home Office on 24 November 2012 for information about British citizenship applications from India. The full text of the request can be found at Annex A of this notice.
8. The Home Office responded to the request on 27 November 2012. It advised the complainant to make a citizenship application in order to receive a reply to his questions. It stated, "*You have been provided with all the information you have requested.*"

Scope of the case

9. The complainant contacted the Commissioner on 13 December 2012 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider the fact that no substantive response had been provided.

Reasons for decision

10. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the requests in this case fulfil these criteria, and therefore constituted valid requests under the FOIA for recorded information.
11. Section 10(1) of the FOIA states that on receipt of any request for information a public authority should respond to the applicant within 20 working days. From the information provided to the Commissioner, although the Home Office did provide a response within 20 working days of receipt of the request, its response did not deal with the requests in accordance with the FOIA.

12. When a public authority receives requests made under the FOIA it must either:
- confirm or deny whether information is held and, in relation to any information that is held, disclose that information, or
 - provide an explanation that is valid for the purposes of the FOIA as to why it will neither confirm nor deny whether information is held, or why it will not disclose information that it has confirmed is held.
13. In this case the Commissioner notes that whilst parts of the correspondence may appear to be asking a question for which it is unlikely that recorded information is held, other parts of the correspondence are valid requests under the FOIA. It may be that some of the correspondence is a repeat of the complainant's earlier request of 8 May 2012, although more than six months has elapsed since then. The Commissioner is concerned that the Home Office has not provided a response valid for the purposes of the FOIA which addresses each of the requests of 24 November 2012.

Conclusion

14. The Commissioner's decision is that the Home Office did not deal with the requests for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the requests within the statutory timeframe of 20 working days. At paragraph 2 above the Home Office is now required to respond to the requests of 24 November 2012 in accordance with the FOIA.

Right of appeal

15. 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

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A

The text is as set out in the request; however the layout has been amended to make the parts of the request clearer.

"Dear sir/madam

Thank you for your kind response under FOI act.

As you stated in your reply dated 23/Nov/2012 "The letter you provided from the Indian authorities states you can re register as an Indian Citizen therefore you would not be able to register under section 4(b) as you are entitled to apply for another nationality".

"where a person ceases to be a citizen of India under sub-section (1) every Minor child of that person thereupon cease to be citizen of India; provided that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again citizen of India"

The above sentence is taken from section 9(1) of Indian Citizenship Act 1955.

The above said citizenship act 1955 clearly states that resuming Indian citizenship (only by registration) within one year after attained the full age. But BOC never resumed it. Did you considered it before replied to me?

1. Could you please confirm me that you sent me the above said reply by careful look and consider in to UKBA law and policy or not? If considered could you please let me know the full section to be applied? And where you found it?
2. Could you please let me know how many BOC's from India registered as British citizen since 2003? Why UKBA failed to apply as per your current statement?
3. "I requested about the UKBA's policy on Boc's from India who is applying for British citizenship"

The above I have requested to reveal but you replied me as follows: "British citizen overseas are not necessarily from India it depends on a number of laws relating to independence and what status certain nationals acquired on different dates"

Could you please clarify me the above whether I asked only BOC's from India or any other BOC's around world? Please furnish me the correct information and appropriate, sir.

4. **From:Chapter 12 anex D(UKBA's policy)**

2.3 Where it appears that an applicant has been issued with a formal document (e.g. a passport or certificate) describing the person as a citizen of another country, but information held about that country's nationality laws indicates that dual nationality is not permitted, it should not be assumed that the document was issued incorrectly. Instead, further enquiries should be made. The applicant should be asked to provide a letter from the relevant authorities confirming that:

- the document concerned was issued in error, and
- the applicant was *at no time* a citizen of that country or lost the citizenship of that country on a specific date

Could you please confirm me did you carefully read and look the above said law and policy of UKBA before you replied me? That India never allowed dual citizenship and the above said statement revealed only that the BOC was at no time a citizen of that country or lost it on a specific date(after July 2002).The most of BOC's from India are attained the full age prior to the year 2002(as there is no claim for BOC after 31/Dec/1982 under BNA 1981) and there is no such act as per you stated as follows: The letter you provided from the Indian authorities states you can re register as an Indian Citizen therefore you would not be able to register under section 4(b) as you are entitled to apply for another nationality .did you consider it or not? Please reply me, sir.

Could you please clarify me from which act and section of British nationality act 1981 you got the above statement that as the entitlement to apply for another nationality will affect to register British citizenship under sec 4(b) of BNA 1981?I hope that UKBA understands the act and policy to be applied as individual country(India) concerned.

5. Could you please clarify me that how was it possible to register as British citizen since 2003 to 2012under sec 4B of BNA 1981 but now itself why this obstacle arose?

Could you please let me know that Annex D of chapter 12 completely explains about section 4(B) from UKBA's policy...Did you review or not? Consider or not? 6.. could you please let me know that Annexure D of chapter 12 completely explains about sec 4(B)from UKBA's policy as states:"

2.6 Applicants of Indian origin

2.6.1 Indian citizenship law does not, in general, allow for dual nationality. The only exception to this is for children who are dual nationals by birth. However even minors who are dual nationals by birth will automatically lose Indian citizenship if they acquire a passport in their other nationality.

2.6.2 More information about Indian citizenship law is contained in Annex H to **Chapter 14.** Did you review or not? Consider or not?