

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2018

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

Decision (including any steps ordered)

1. The complainant has requested information relating to the Data Protection Officer and data losses by the Home Office.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. As the information has now been provided, the Commissioner does not require the Home Office to take any further steps.

Request and response

4. On 12 September 2018, the complainant wrote to the Home Office and requested information in the following terms:
 1. "[name redacted] was requested more than once to provide the name and contact details of your department's appointed Data Protection Officer in terms of the GDPR 2018, can you please supply any legal reason why this information was withheld up to now?
 2. Please supply the name and contact details of your Data Protection Officer appointed in terms of the provisions [sic] of Data Protection Act 2018 and the GDPR 2018?

3. *The new regulations require the Data Controller to report serious personal data losses within 72 hours of becoming aware of the loss or leak, has this case been reported to the ICO?*
4. *If so, please supply the reference number obtained from the ICO for this report?*
5. *If not reported to the ICO, please supply the reasons why it was not reported?*
6. *The Home Office are aware of documentation and passports allegedly going missing in the Home Office before this incident, what security measures were in place to prevent such from personal data losses from happening?*
7. *Can you please give a full explanation on the following statement made by the Home Office?*

"It may be helpful if I explained that the Durham office is where all new applications are received and sorted. The passports are kept in secure envelopes inside a secure plastic pouch. The documents Liverpool received in connection with your application were kept in this way from the minute Durham sent them to Liverpool, via Royal Mail, to the moment the documents were returned to you. No damage was noted on the package when it was received in Liverpool."

Explain the level of data security at the Durham Office using the below questions

7 (a) The Post Office deliver cards for signed for items to this PO Box. How are the documents fetched from the Royal Mail Depot? How many officials are present when the items are signed for?

(b) After been signed for, how are the items transported to the Durham Office? If in a vehicle, is this fitted with CCTV?

(c) After documents arrive at the Durham Office been received from Royal Mail, how many officials are present when each item received from Royal Mail is opened?

(d) How is record kept of the staff members being present at the time of opening documents and the staff member opening that documents?

(e) Any CCTV coverage of the area where the documents are opened? (you are aware that allegedly documents went missing before this incident)

(f) How are the documents received recorded and how is that recording checked for accuracy?

8 . *"The passports are kept in secure envelopes inside a secure plastic pouch"*

(a) This statement implies that passports were separated [sic] from the application at this point, can you explain the reason for this?

(b) Where were these pouches kept securely and who had access to where these were kept?

(c) The place where these pouches were kept, is this covered by cctv?

(d) Where were the application documents kept?

9. *Liverpool Office Security:*

(a) How are the items delivered or fetched from Royal Mail to the Liverpool Home Office?

(b) How many officials are present at the opening of the received items, are their names recorded?

(c) Is the post opening area covered by CCTV?

(d) Is the processing office (creation team) covered by CCTV?

(e) Are there any control lists for documents passed between staff members and sections within this office; and are documents handed over to recorded names of staff members? Do they sign for important documents (passports) transferred between them or how is record kept?

(f) During the processing of the "case creation" and the "case considered" processes, how and where were important documents kept securely?"

5. The complainant wrote to the Home Office again on 5 and 10 October 2018 for an update on her request.

Scope of the case

6. The complainant contacted the Commissioner on 12 October 2018 to complain about the Home Office's failure to respond to her information request.

7. On 19 October 2018 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
8. The Home Office wrote to the ICO on 7 November 2018, stating that the request had been referred to its Data Protection team to handle as a subject access request. The Home Office also stated that it had no record of a FOIA request being received.
9. On 8 November 2018, the ICO contacted the Home Office who reiterated they had no record of the FOIA request.
10. On 9 November 2018, the ICO re-sent the request to the Home Office, asking it to respond by 14 November 2018. The ICO also confirmed that a copy of the request had previously been sent to the Home Office's Data Protection team on 17 October 2018.
11. The ICO contacted the Home Office again on 23 November 2018 to obtain an update. The Home Office stated that it still did not have any record of the request being received.
12. The ICO wrote to the Home Office again on 17 December 2018 to request an update. On 18 December 2018, the Home Office confirmed that its response was sent to the complainant on 13 December 2018.

Reasons for decision

13. Section 1(1) of the 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."

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt."*
15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Home Office has breached Section 10 of the FOIA.

Right of appeal

16. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

17. 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.
18. 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

Deborah Clark
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF