

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 March 2023

Public Authority: Home Office

Address: 2 Marsham Street, London SW1P 4DF
(email: info.access@homeoffice.gov.uk)

Decision (including any steps ordered)

1. The complainant has requested information within the Home Office guidance in its 'Knowledge Base' on aligning names on foreign documents in relation to all current EU-countries. The Home Office withheld the requested information relying on the section 22(1) FOIA exemption (Information intended for future publication).
2. The Commissioner's decision is that the section 22(1) FOIA had been correctly applied.
3. The Commissioner did not require further steps.

Request and response

4. On 31 January 2022, the complainant wrote to the Home Office ("HO") and requested information in the following terms:

"In your/HMPO guidance on 'Names, aligning names on foreign documents' there is reference made to (I assume a database, that is called) 'Knowledge Base'.

Under the FOI-Act, could you please provide this so-referenced information (i.e. relevant to the guidance + recorded on Knowledge Base), in relation to all current EU-countries.”

5. HO refused the request and following an internal review said on 14 April 2022 that it could not respond immediately but published some relevant information in September 2022 which did not fully satisfy the request. HO said that it estimated that publication of the HO/ HM Passport Office Knowledge Base in relation to all current EU countries was due in part at the end of 2022. Publication of the rest of the Knowledge Base was intended to take place by the end of 2023.

Scope of the case

6. The complainant contacted the Commissioner on 23 January 2023 to complain about the way his request for information had been handled.
7. HO explained, by way of background, that its 'Knowledge Base' consisted of a 'landing page' containing guidance for HO staff only, and 'country profiles'. These documents, which contained information about the 'profiles' of countries, varied in size and content. Each was made up of certain topics although not all profiles had the same topics. One of the topics was 'Names' / 'Name alignment' (on foreign documents).
8. Due to the specific wording of the information request, HO proposed, and the Commissioner agreed, that the request referred just to information on HO Knowledge Base concerning 'Names' / 'Name alignment' (on foreign documents) and not to other information in the country profiles.

Reasons for decision

Section 22 - Information intended for future publication

9. Section 22(1) FOIA says that information is exempt if:
 - (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
 - (b) the information was already held with a view to such publication at the time when the request for information was made, and
 - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

10. Section 22 FOIA allows a public authority to withhold information that it is already intending to publish if it is reasonable in the circumstances to wait until the anticipated publication date.
11. In order to engage the exemption, the public authority does not need to have set a specific publication date, but it must have already had a settled intent to publish the information before the request was made and it must be intending to publish all the withheld information – not just parts of it.
12. The complainant told the Commissioner that his request was about the references that are made within this guidance. He said that the website referred to a Knowledge Base database that suggested the rules could be different for each country, and to "check Knowledge Base". He added that therefore there must be country-specific information held on Knowledge Base, but that is NOT currently published within the website. His request was for the relevant information on Knowledge Base (ie "recorded on Knowledge Base" and "in relation to all current EU countries"). He believed the exemption was being wrongly applied by HO as it did not fit the circumstances. He added that he could not detect a genuine intent to publish it.
13. HO told the Commissioner that it held over 200 country profiles in total. HO confirmed that it already had a settled intention to publish these profiles at the time of the request. That remained the case. However other operational priorities during 2022 meant HO had had to redeploy its resources and this had delayed its planned publication programme. The intention to publish the information remained and work was underway on the first batch of profiles. HO added that the requested 'Names' / 'Name alignment' information would be included in the wider profile documents which it intended to publish.
14. HO told the Commissioner it expected to publish all of the 27 EU country profiles by the end of June 2023. When published, the information would be found at 'HM Passport Office: passports policy - GOV.UK (www.gov.uk)'.
15. The Commissioner recognises that information delayed is information denied and was concerned at the continuing delay in publication. However he accepted the HO evidence that it had, and still has, the intention to publish the country profiles. He welcomed the HO plan to publish the current EU country profiles by the end of June 2023 and considered that it was still reasonable to withhold the requested information until the HO country profiles are complete.
16. The Commissioner therefore decided that section 22 of FOIA was engaged.

Public interest test

17. Although the Commissioner decided it was reasonable to delay the disclosure of the information, the section 22 FOIA exemption is qualified and he must consider the balance of the public interest.

Arguments in favour of disclosure

18. The complainant said, in his request to HO for an internal review, that it had omitted two important elements from the public interest test; matters of depreciation and urgency were both missing. With Brexit then being in full swing, there was added urgency. Members of the public needed access to the requested information sooner rather than later. Publication several months or even years from now, significantly reduced the value of the information that he was requesting. Moreover no planned date for publication had been provided.
19. HO said that it recognised the general public interest in openness and transparency in government, which serve to increase public trust. There was also a public interest in providing information to enable the public to understand decisions which may affect them. More specifically, in this case, there is an interest in members of the public being able to access information about name changes in identity documents, including passports, issued by other countries. For that reason HO intended to publish this information (in context, alongside other information) in due course.

Arguments in favour of maintaining the exemption

20. HO said that that there was a strong public interest in permitting it to prepare information for publication in an organised and coherent manner, allowing time for proper data quality assurance to ensure that its published information met both HO and Government Digital Service standards.
21. HO added that disclosing information piece-meal ahead of the planned publication, eg as part of an information request, would undermine pre-planned publication procedures and inhibit HO's ability to deploy staff resources effectively. In HO's view disrupting the work of officials by taking them away from their pre-planned work would not be in the wider public interest.
22. HO confirmed that it expected to publish the first batch of profiles, including all of the 27 EU country profiles, by the end of June 2023, and continue until the publication of the remaining country profiles is complete.

Commissioner's conclusion

23. The Commissioner recognises the strong public interest in openness and transparency, and in limiting any delays to publication. He welcomed

HO's evidence that the information will be published as soon as it is ready.

24. However the Commissioner considered that there was an even stronger public interest in HO being able to publish the requested information in a controlled manner after it has been fully completed. Premature disclosure of information would be likely to impact on its quality and raise issues that HO would have to divert resources into countering.
25. Having taken the arguments for and against disclosure into account the Commissioner decided that the balance of the public interest favours maintaining the exemption.

Right of appeal

26. 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

27. 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.

28. 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

Dr R Wernham
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