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Alan Cox

request-17169-38a56390@whatdotheyknow.com

5 March 2010

Dear Mr Cox

Environmental Information Regulations 2004 request (our ref. 12687): internal review

I am writing further to my e-mail of 13th October 2009, about your request for an internal review of the response to your information request about the environmental impact assessment of ID Cards. I apologise for the delay in replying.

I have now completed the review. I have examined all the relevant papers, and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and assessed the reasons behind the response that was issued to you. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My main conclusion is that your request for information should have been dealt with under the Environmental Information Regulations 2004 and not the Freedom of Information (Fol) Act. However, please note that we do not hold the information you have requested.

I can also confirm that your request was not answered within 20 working days and therefore the Home Office also breached Regulation 5(2) of the Environmental Information Regulations 2004.

I am happy to talk to you about our conclusions if you wish to contact me.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your EIR request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House

Water Lane
Wilmslow
Cheshire SK9 5AF

Yours sincerely,

Martin Riddle
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Alan Cox (reference 12687)

Responding Unit: Identity and Passport Service

Chronology

Original Fol request: 19/08/09

Acknowledgement: 25/08/09

Further letter from Mr Cox 19/09/09

IPS response: 22/09/09

Request for internal review: 22/09/09

Subject of request

1. Mr Cox requested the following information from the Identity and Passport Service (IPS):

As many millions of ID cards will be required by the scheme, manufactured, processed, lost, replaced, and disposed of they have a significant environmental cost.

Can you therefore provide me with copies of

- The environmental impact assessments that were made on the cards before a final design was selected*
- The estimate of the number of cards that will be recycled or disposed of each year once the scheme is running fully*
- The planned procedure for the recycling of cards*

The response by Identity and Passport Service

2. The response sent by IPS on 22 September stated:

We believe that the information that you have asked for is already reasonably accessible to you. It can be accessed on the Identity and Passport Service website at www.ips.gsi.gov.uk. I have attached an electronic link to a document entitled 'Identity Cards Act Secondary legislation: An Impact Assessment (the "Impact Assessment")', which addresses your area of interest: - (a copy of this information is provided at Annex X)

Section 21 of the Freedom of Information Act exempts the Identity and Passport Service from complying with the duty to supply you with this information on the grounds that it is already in the public domain. Should you have difficulties in

accessing this information by the means listed above please do not hesitate to contact me again.

Mr. Cox's request for an internal review

3. Mr Cox asked for an internal review of the IPS response in an email dated 21 September 2009:

I am writing to request an internal review of Home Office's handling of my FOI request 'ID Card environmental impact assessment'.

A full history of my FOI request and all correspondence is available on the Internet at this address:

http://www.whatdotheyknow.com/request/id_card_environmental_impact_ass

Procedural issues

4. Mr Cox's request for information was treated as a Freedom of Information request. However, due to the information he was requesting, it should have been dealt with under the Environmental Information Regulations 2004 (EIR) as an EIR request.

5. Environmental information must be answered under the EIR guidance and not under FOI. Section 39 of the FOI Act is an exemption that relates to Environmental Information. Any Environmental Information requested is exempted under the FOI Act via this exemption and must be conducted and answered under the EIR.

6. Both FOI and EIR requests must be answered promptly and within 20 working days. In this case the original request was submitted to IPS on 19 August 2009 and a full response was issued on 22 September. This represents a period of 23 working days between receipt of the request and the final response being issued, meaning that IPS were in breach of section 10(1) of the FOI Act and under section 5(2) of the EIR.

7. Where reasonably required an extension of time is permitted under FOI to consider the public interest test under a qualified exemption. The length of time to consider the public interest is, "such time as is reasonable in the circumstances". Under the EIR, an extension of time is permitted for a maximum of 40 days and only in those cases where the complexity and volume of the request require it. I can see no grounds for the requirement to extend the case to the 40 working days stipulated under the EIR.

8. Mr Cox wrote to IPS prior to receiving his response to complain about the delay stating that the deadline for his response was 17 September. However, the acknowledgement letter sent stated that the response was not received until 20 August making the deadline 18 September. I can confirm that Mr Cox was correct as the request was received on 19 August. Both EIR and FOI requests submitted electronically count as being "received" when the email arrives and not when it is opened.

9. Section 5(2) of the EIR was breached in this case as Mr Cox was not provided with a substantive response before 17 September.

Consideration of the response

10. The response sent to Mr Cox on 22 August, informed him that the information was already reasonably accessible to him in the public domain in the Impact Assessment. The response cited section 21 as the exemption that applied in this case, and a link was helpfully provided.

11. Under the EIR no such exemption exists that can be used to refuse to provide the applicant with the information they have requested. Authorities are to make the information available to the public by electronic means which are easily accessible, and take reasonable steps to organise the information relevant to its functions with a view to the active and systematic dissemination to the public of the information. Authorities can then refer the applicant to this information.

12. The information provided at the link should have been replicated in full to Mr Cox to meet EIR requirements. Furthermore, the information referred to in the Section 21 response does not fully answer the original questions posed. Upon examination there is only a small amount of information contained at the link that is relevant to Mr Cox's questions.

13. I have looked at each question below and measured them against the information contained in the Impact Assessment. I have considered these points, and the extent to which the response issued was correct in relation to each question, having spoken with IPS.

Question 1

The environmental impact assessments that were made on the cards before a final design was selected;

14. The only reference to environmental impact assessments appears on page 40 (Section 4.18) and this does not answer the question adequately. Section 4.18 states only:

“The provisions being introduced by this secondary legislation will not have a meaningful impact on environmental or health issues. However, the Identity and Passport Service has and will continue to ensure that our work is carried out in a sustainable way as new measures to introduce the National Identity Service are implemented. A sustainable development policy within the organisation has established local targets for:

- Reducing electricity consumption
- Improving energy efficiency
- Reducing waste and increasing recycling
- Reducing water consumption.”

15. There is no Environmental Impact Assessment as none was required. The response, however, provided a link to an overall Impact Assessment which

contained a section on the environmental impact of the National Identity Service. Whilst this did not specifically cover the ID card design or recycling of cards, as requested, the response was helpful in that it tried to point the requestor to information that further explained the position regarding them. The linked report contains information which shows that an EIA was not required for this project, as it noted the proposals do not have a meaningful impact on environmental or health issues. For this reason, the response was handled under the terms of the FOI Act, as the respondent did not consider the request to be environmental in nature, given the reports findings that the impact on the environment would not be meaningful.

16. It also follows, however, that the information to answer this request is not held. Although the reference to the Impact Assessment is helpful, under the FOI Act, section 1(1)(a) would be considered breached as IPS do not hold information relevant to this question. Section 1(1)(a) of the FOI Act requires public authorities to say whether or not they hold requested information.

17. This case should, however, be considered under the EIR. Under the EIR there is no specific regulation in place that matches this section of the FOI Act. A public authority that holds environmental information shall make it available on request. Should the public authority not hold the requested information, it is common courtesy that the authority make the applicant aware of this.

18. It would, therefore, have been appropriate for IPS to make clear than no information was held, and to explain that:

- the number of cards that will expire in the first years of the service is very small and there is no requirement for them to be returned to IPS;
- hence there is a relatively negligible environmental impact and any mitigation is addressed already through general recycling campaigns amongst the public;
- IPS will keep this issue under review as the service rolls out: indeed the Impact Assessment states that IPS intend to update their assessment as further stages of the service commence.

Question 2

The estimate of the number of cards that will be recycled or disposed of each year once the scheme is running fully;

19. The only reference to the number of cards issued in the document is a reference on page 6 (section 1.8) that states that “In this phase of the rollout, approximately 6 million people will enrol annually and therefore, it is from 2012 that the service will be open to, and impact on, most people.” Again, this does not contain an estimate of the number of cards that will be recycled or disposed of.

20. The correct response is that since the original response was issued, more detailed estimates of the number of identity cards and passports to be issued in each year over the next 10 years have been published in the National Identity Service Cost Report on 26th October (pages 5 and 7), accessible at this link:

[http://www.ips.gov.uk/cps/files/ips/live/assets/documents/IPS Cost report 2009 v5.pdf](http://www.ips.gov.uk/cps/files/ips/live/assets/documents/IPS_Cost_report_2009_v5.pdf).

21. There are no forecasts for the number of cards that might be destroyed each year. As cards and passports are both valid for 10 years, unless an identity card is cancelled prior to its expiry, the majority of identity cards will not need to be disposed of until 10 years after the date of issue. So, for example, the identity cards to be issued in Greater Manchester from 30 November 2009 will not expire until November 2019.

22. Had this case been an FOI request, section 21 would have also been applied incorrectly as the requested information was not contained in the Impact Assessment. In addition section 1(1)(a) of the FOI Act would have been breached as the response did not accurately state that the requested information was not held.

23. Under the EIR regulations, the applicant should have been provided with the explanation above

Question 3

The planned procedure for the recycling of cards.

24. This information is not contained within the Impact Assessment document.

25. The correct response to this question would have been for IPS to explain that there is no requirement for people issued with identity cards to return them when they expire and so there are currently no plans to recycle identity cards. It will be for the card holder to decide whether and, if so, how to dispose of the card. For most people this is not a decision that will be made until the card has expired (10 years after the date of issue). As with passports, the IPS will destroy as classified waste any small number of identity cards that are returned to it for cancellation, for example, if they are found having been lost or stolen.

26. Again as this is an EIR request Section 21 cannot be used to answer this request. If this had been a request under the FOI Act, Section 21 was applied incorrectly and section 1(1)(a) have been considered breached as the response did not state that the relevant information is held. Mr Cox should have been provided with the explanation above.

27. In Mr Cox's correspondence to Hazel Reid on the 22nd September 2009, the following was stated: -

"It contains some boiler plate about the goals of the IPS in minimising environmental harm and references to a data centre audit, which is not part of the card selection process but of the computing impact. I note this review while cited has not been published either that I can find."

28. In addressing this point I can advise you that the review referred to does not contain any information relevant to this request. It does not contain any information about the environmental impact of ID cards legislation.

Conclusion

29. The case was dealt with under incorrect legislation. The case was an EIR request and should not have been dealt with under the FoI Act.

30. Regulation 5(2) of the EIR was breached as the reply was sent late.

31. Regulation 5(1) of the EIR was not breached as the department did not hold the information that was requested. The reply, however, should have made this clear.

32. The provision of a link to the Impact Assessment was helpful, and may have been of interest to the applicant. However, it did not contain the answers to the precise questions posed.

33. Had this been an FoI request then sections 1(1)(a) and 21 would have been breached, on the basis that the information was not held.

34. For the purpose of clarity, I confirm that no information falling within the scope of this request is held.

Information Access Team
Home Office
26/02/10