



Home Office

Information Access Team

Information Management Service

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Mr John Walker
request-20984-
30aa1eca@whatdotheyknow.com

Our Ref 13053
Your Ref
Date 17 December 2009

Dear Mr Walker

I am writing further to my correspondence of 16 October 2009 regarding your information request dated 14 October 2009. We are now in a position to offer a full reply to your request and would like to apologise for the delays you have experienced while awaiting this response.

You asked for the following information

“For each of the following acts/regulations, how many times has the Home Office been reported to the Information Commissioner's Office (ICO) for alleged breaches of the listed acts/regulations and how many times has the Home Office been found guilty of breaking the law?”

Data Protection Act 1998 (the DPA)

Freedom of Information Act 2000 (FOIA)

Environmental Information Regulations 2004

Privacy and Electronic Communications (EC Directive) Regulations 2003”

I am pleased to be able to disclose information relevant to your request from May 2007 onwards, when the department's remit was altered with the creation of the Ministry of Justice. Since May 2007 the Home Office has comprised of four constituent parts – Home Office Headquarters (HO HQ), the United Kingdom Border Agency (UKBA), the Identity and Passport Service (IPS) and the Criminal Records Bureau (CRB). We hold some relevant information from before May 2007 but to search for and collate it would be likely exceed the cost limit contained in section 12 of the Freedom of Information (FOI) Act. Further information about this can be found in Annex A below. The response below therefore covers all four parts of the organisation since May 2007.

The ICO initiates contact with the Home Office in relation to complaints about



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both statutory and non-statutory issues, and therefore not all contact is made in relation to alleged breaches of the above legislation. We hold no information about the number of times the ICO has been contacted about compliance with any of the above legislation, as we do not know whether the ICO contacts us about all correspondence that it receives. However we have provided information below about the contact that we have received from the ICO as we consider this to be relevant to your request.

Data Protection Act 1998 (DPA)

We have records of having received 56 enquiries from the ICO regarding compliance with the DPA. These letters generally remind the department of its obligations under the DPA in relation to the handling of subject access requests, and request that outstanding requests are answered without delay. None of these letters constitute formal decisions about Home Office compliance with the DPA.

Furthermore, in January 2009 the ICO required the Home Office sign a formal undertaking after a contractor employed by it, PA Consulting, lost a memory stick holding personal data in August 2008. Further information on this can be found on the ICO website at this location:

http://www.ico.gov.uk/upload/documents/library/data_protection/notices/home_off_ice_undertaking.pdf

Freedom of Information Act 2000 (FOIA)

Since May 2007 the Home Office has records of having received 71 enquiries from the ICO about the handling of FOI requests. We have received further correspondence from the ICO about non-statutory issues, such as the handling of internal review requests.

The Home Office also holds information indicating the number of times the ICO has upheld a complaint about its compliance with the FOI Act. This information is already readily available to you, and as such is exempt from disclosure under Section 21 of the FOI Act. You can find this information on the ICO's website at this location:

http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx

Environmental Information Regulations 2004 (EIR) Privacy and Electronic Communications (EC Directive) Regulations 2003

The ICO has not contacted us in relation to either of these sets of regulations. Therefore no complaint about our compliance with either set of regulations has been upheld.

I hope that you find this information of interest, and would like to assure you that you have been supplied with all relevant information that the Home Office holds.

In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. The

department therefore, will be simultaneously releasing to the public the information you requested together with any related information that will provide a key to its wider context.

If you would like to discuss your request further, or refine it where the cost limit has been applied, please do not hesitate to contact me directly. Should you be dissatisfied with this response, details of our complaints procedure can be found in Annex B.

Yours sincerely

Martin Riddle
Information Access Caseworker

ANNEX A (to Letter)– Further information on exemptions used

Section 12 – Cost Limit

Under section 12 of the Freedom of Information Act, the Home Office is not obliged to comply with any information request where the prescribed costs of supplying you with the information exceed £600. The £600 limit applies to all central government departments and is based on work being carried out at a rate of £25 per hour, which equates to 3½ days work per request. Prescribed costs include those which cover the cost of locating and retrieving information, and preparing the information for disclosure to you. They do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or disbursements such as photocopying or postage.

Should you wish to refine your request, by concentrating on a particular piece of legislation or shortening the time period covered by your request prior to May 2007 we will consider it further. Bearing this in mind you may wish to note that the Freedom of Information Act and Environmental Information Regulations have been in force since January 2005. The Data Protection Act 1998 came into force gradually starting in March 2000, and it was preceded by the Data Protection Act 1984. The Privacy and Electronic Communications (EC Directive) Regulations 2003 came into effect in the same year.

ANNEX B (to Letter) – Complaints Procedure

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting your complaint within two months to the below address quoting reference 13053:

Information Access Team
Information Management Service
Home Office
Ground Floor, Seacole Building
2 Marsham Street
London
SW1P 4DF
Email: info.access@homeoffice.gsi.gov.uk

During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.