



Home Office

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M M Simmons

Via email to: [request-394403-853c8496@whatdotheyknow.com](mailto:request-394403-853c8496@whatdotheyknow.com)

18 July 2017

Dear M M Simmons

**Freedom of Information request (our ref: 43857): internal review**

Thank you for your email of 13 June 2017, in which you asked for an internal review of our response to your Freedom of Information (FOI) request regarding errors on adoption certificates.

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. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My conclusion is that section 40(2) of the FOI Act was applied incorrectly to your request. I am now able to provide part of the information that you requested. Section 12(1) of the FOI Act applies to the remaining part of your request.

This completes the internal review process by the Home Office for reference **43857**.

Yours sincerely

**S Mason**

**Information Rights Team**

Switchboard 020 7035 4848

Email [info.access@homeoffice.gsi.gov.uk](mailto:info.access@homeoffice.gsi.gov.uk)

Internal review of response to request under the Freedom of Information (FOI) Act 2000 by (reference **43857**)

**Responding Unit: Her Majesty's Passport Office (HMPO)**

**Chronology**

Original FOI request (reference <b>43200</b> ):	10 March 2017
HMPO response:	10 April 2017
Follow up request (reference <b>43544</b> ):	11 April 2017
HMPO response:	4 May 2017
Follow up request (reference <b>43857</b> ):	6 May 2017
HMPO response:	5 June 2017
Follow up correspondence to FOI <b>43857</b> :	11 June 2017
HMPO response:	12 June 2017
Request for internal review:	13 June 2017

**Subject of request**

1. The requester has asked for an internal review into the response provided for FOI reference **43857**.

**Subject of request (6 May 2017)**

2. The requester reframed their original request (**43200**) and requested information held over the last eleven weeks for question 4 of their original request.
3. The original question (**43200**) reads as follows:

*4) With recorded information, how many times in the last 12 months has it come to the general registry office's attention that an error was made on an adoption order where a child's name details ( concerning their name either in part or full) and who could be traced on the said register for England & Wales, then can I ask the same where ones could not be traced if the latter is applicable.*

**HMPO response (5 June 2017)**

4. HMPO advised the requester that over 1,500 records were searched and that fewer than 5 records were identified as within the terms specified in the request. HMPO withheld this information under section 40(2) (personal information) of the FOI Act, because of the condition at section 40(3)(a)(i), as the release of this information could potentially be used to identify an individual and this would contravene the first data protection principle.

### **Follow up correspondence (11 June 2017)**

5. The requester asked for confirmation as to whether there were 5 or less than 5 records identified as containing the information requested. The requester asked to be informed of what the calculation with costs were, to carry out their current FOI request search for answers before closing off their request.

### **HMPO response (12 June 2017)**

6. HMPO confirmed that there were less than five records.

### **The request for an internal review (13 June 2017)**

7. The internal review requested a review into the data requested and the costs of carrying out the request. The requester cites section 35(2)(a) of the Data Protection Act 1998 and states that they have not received all the information they have requested accurately, and that it is difficult to interpret the data provided. The requester also asked for the costs in providing the information.
8. For the full text of the internal review request see **Annex E**.

### **Procedural issues (FOI 43857)**

9. The Home Office received the request via the 'What Do They Know' website on 6 May 2017, and therefore HMPO were obliged to provide a response within 20 working days (by 6 June 2017). The final response was sent to the requester on 5 June 2017 which was within the 20 working days deadline. Therefore, the Home Office complied with section 10(1) of the Act by providing a response within the statutory deadline of 20 working days.
10. The requester was informed in writing of their right to request an independent internal review of the handling of his request, as required by section 17(7)(a) of the Act.
11. The response also informed of the requester of their right of complaint to the Information Commissioner, as set out in section 17(7)(b) of the Act.

### **Consideration of the response**

12. I have carefully considered the requester's comments and consulted with the responding unit.
13. Following this consultation, I can confirm that part of the information that was requested in question 4, for a period of 12 months, can now be released to the requester and part of the information requested is withheld under section 12 of the Act. Further explanation on the findings can be found below.

### **Partial release of information (question 4)**

14. Where an entry is created on the Adopted Child Register (ACR), following the receipt of a court order, and it is subsequently found that an error has been made relating to the child's name in that court order and hence the ACR, then the

adoptive parent(s) or adopted person (over the age of 18) would need to apply to the court for an amended order to correct the name. If the court is satisfied that an error has occurred they will send an amended adoption order to the General Register Office (GRO), who will then amend the entry in the ACR.

15. In the period 29/06/2016 – 29/06/2017 forty four court orders amending a child's name have been received. We determine these as children traced on the England and Wales ACR.

## Section 12

16. GRO holds the information for children *not traced* on the England and Wales ACR; this is where an adoption order is received from the courts and GRO determine that there is a discrepancy within the order for a number of reasons, including the child's name. The order is returned to the court prior to an entry being created on the ACR. However, to provide this information for the last 12 months (as per the original request **43544**) or 11 weeks as specified in the revised FOI request (**43857**) would exceed the cost limit under section 12(1) of the Act.
17. Under section 12(1), the Home Office is not obliged to comply with an information request where to do so would exceed the cost limit.
18. The £600 limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request. The cost of locating, retrieving and extracting information can be included in the costs for these purposes. The costs do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or items such as photocopying or postage.
19. It may help to explain that each year GRO receives around 6,000 court orders relating to new adoptions. Any amended court orders received correcting an error to a child's name within these court orders is stored along with the original court order. It is not possible to identify those court orders specific to the child's name without a manual search of all orders returned to the court. Although the time taken to analyse each court order would vary, even if we were to allow 1 minute per record, due to the number of records held it would not be possible to conduct this search within the cost limit.
20. Unfortunately, due to the specific nature of the request, it is not possible to advise how to bring the request within the cost limit.

## Section 40

21. As part of the requested information is now being released to the requester, and part of the information is being withheld under section 12(1) of the Act, section 40 of the Act no longer applies to the request. No further consideration has been given to this exemption.
22. I note from the internal review request that the requester has cited section 35(2)(a) and (b) of the Data Protection Act 1998 (DPA), which relates to *Disclosures required by law or made in connection with legal proceedings*. It may be helpful to explain that data protection requests are dealt with separately outside of the FOI Act and a DPA exemption from the non-disclosure provisions could not be applied to override the exemption at section 40(2) of the FOI Act. Since there are no

personal data at issue in this request, and section 40(2) is no longer being applied, the point is academic.

### **“Costs”**

23. The requester has made reference to “costs” in carrying out their request, in their internal review. I note that this request has been made in other correspondence that has been made to HMPO, however has not been addressed.
24. Whilst it is not clear what the “costs” being requested are in reference to, I have taken this to mean the section 12 response which was originally cited in the original FOI request, reference **43544**.
25. I note that a full explanation was provided to the requester in **43544** as to how the cost limit would be exceeded, including the number of records that would need to be manually searched. Under section 16 of the Act, advice and assistance was provided to the requester that due to the specific nature of the request, it would not be possible to provide advice on how the request could be refined and brought within the cost limit.

### **Conclusion**

26. The response was sent within 20 working days; consequently the Home Office complied with section 10(1) of the FOI Act.
27. Section 1(1)(a) was complied with, as the response clearly stated that the requested information was held.
28. The response complied with the requirements in section 17(7)(a) and 17(7)(b) as it provided details of the complaints procedure.
29. The response erred in citing section 40(2) of the Act.
30. The response should have provided some of the information that was requested, and advised the requester that some of the information could not be provided without exceeding the cost limit under section 12(1) of the Act.

**Information Rights Team**  
**Home Office**  
**18 July 2017**

**Annex A – full text of request (dated 6 May 2017)**

Dear Her Majesty's Passport Office,

Thank you for your response on 4 May 2017. Where you stated 'Thank you for your email of 11 March, i can confirm that i am aware i responded on 11 April 2017 just for clarification.

I have looked at Section 8(1)(c) of the Freedom Of Information Act 2000 where it states '8 Request for information (1)(c) describes the information requested'

You then state 'If you provide the timeframe your request covers, we will consider your request again. I would recommend that you provide a timeframe no larger than three months.' I understand you are unable to help any further with question two as it would be a matter for the courts and that there would not be any information held on the issue by yourselves.

To refine my request, i would like to request under the Freedom Of Information Act 2000 and with recorded information the following-can I request that I receive information as already described (at question 4) over the last eleven weeks.

Yours sincerely,

M M Simmons

## **Annex B – full text of FOI response (dated 5 June 2017)**

Reference: FOICR 43857/17

5 June 2017

Dear M M Simmons

### **FREEDOM OF INFORMATION REQUEST**

Thank you for your further email of 6 May, in which you asked for information regarding errors on adoption certificates.

Your request has been handled as a request for information under the Freedom of Information Act (FOI) 2000.

**4. With recorded information, how many times in the last 12 months has it come to the general registry office's attention that an error was made on an adoption order where a child's name details (concerning their name either in part or full) and who could be traced on the said register for England & Wales, then can i ask the same where ones could not be traced if the latter is applicable.**

You refined your request on the 6 of May.

**To refine my request, i would like to request under the Freedom Of Information Act 2000 and with recorded information the following-can I request that I receive information as already described (at question 4) over the last eleven weeks.**

The General Register Office (GRO), which is part of Her Majesty's Passport Office (HM Passport Office), holds the information requested on orders relating to amendments to the Adopted Children's Register.

This information is, however, exempt from disclosure under the Data Protection Act 1998 as it could potentially be used to identify personal data related to an individual. Although there were over 1500 records searched, as there were less than five records identified as containing the information requested we are unable to disclose this information.

HM Passport Office has obligations under the Data Protection Act and in law generally to protect personal data. We have concluded that the information you have requested would be exempt from disclosure under section 40(2) of the FOI Act, because of the condition at section 40(3)(a)(i). This exempts personal data if disclosure would contravene any of the data protection principles in Schedule 1 to the Data Protection Act.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference FOICR 43857/17. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Rights Team  
Home Office Third Floor, Peel Building  
2 Marsham Street  
London SW1P 4DF  
email: [foirequests@homeoffice.gsi.gov.uk](mailto:foirequests@homeoffice.gsi.gov.uk)

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain

dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act

Yours sincerely

**P Feakins**

**Freedom of Information Team**



## **Annex C - Follow up correspondence (dated 11 June 2017)**

Dear Her Majesty's Passport Office,

Thank you for responding to my FOI Request on 5 June 2017

Where you stated-

'This information is, however, exempt from disclosure under the Data Protection Act 1998 as it could potentially be used to identify personal data related to an individual. Although there were over 1500 records searched, as there were less than five records identified as containing the information requested we are unable to disclose this information.'

I completely understand and respect the former and would just like to ask for clarification where it states 'as there were less than five records identified' if the information is stating that there were five records or if there were less than five records and if so, how many (without personal data released related to an individual which could potentially be used to identify their personal data)

In your response dated 5 June 2017 you stated-

'Your request has been handled as a request for information under the Freedom of Information Act (FOI) 2000.

4. With recorded information, how many times in the last 12 months has it come to the general registry office's attention that an error was made on an adoption order where a child's name details (concerning their name either in part or full) and who could be traced on the said register for England & Wales, then can i ask the same where ones could not be traced if the latter is applicable.

You refined your request on the 6 of May.

To refine my request, i would like to request under the Freedom Of Information Act 2000 and with recorded information the following-can I request that I receive information as already described (at question 4) over the last eleven weeks.'

I had specifically stated/asked-

'how many times in the last 12 months' Then i had stated as you acknowledged-

'can I request that I receive information as already described (at question 4) over the last eleven weeks.'

Then aswell as the specific calculation i requested ('how many times') as described (which i will again ask and request under the Freedom Of Information Act 2000) can i request to be informed of what the calculation with costs were, mentioned to me about previously; to

carry out my current FOI request search for answers (for question 4, where i refined my request) before closing off my request.

Yours sincerely,

M M Simmons

**Annex D - Response to follow up correspondence (dated 12 June 2017)**

Dear M M Simmons,

Thank you for your below email, I can confirm that there were less than five records.

Yours sincerely

Her Majesty's Passport Office

## **Annex E - full text of the internal review request (dated 13 June 2017)**

Dear FOI,

Following on from the response i received on 12th June 2017, where i requested data statistics (in relation to the latter of my request) under the Freedom Of Information act 2000 (FOIA) and not for personal data, i have not received all my information. I have received a rough estimate only. (Where it states 'less than five.')

May i request an Internal Review into the data statistics i requested and the costs of carrying out my request as acknowledged/responded to more recently on on 11th June 2017 if this latter (costs) can be provided.

I can confirm that i did not ask for how many times has it 'not' come to the general registry office's attention where i appear to have been given potentially extra information, and i had only asked how many times it 'has' come to the general registry office's attention where it then states-

'that an error was made on an adoption order where a child's name details (concerning their name either in part or full) and who could be traced on the said register for England & Wales, then can i ask the same where ones could not be traced if the latter is applicable.'

(Section 35 (2) (a) (b) dpa 1998)

Where it states-

'then can i ask the same where ones could not be traced if the latter is applicable.' I can confirm i meant i was requesting the information for ones where there has been no success with tracing on the England & Wales register. Then it states-

'if the latter is applicable.'

(Section 35 (2) (a) (b) dpa 1998) I confirm that even where i previously have not provided (Section 35 (2) (a) (b) dpa 1998) legislation, i have not received all my information accurately as i should have done; which is misleading as the response is potentially left open to misrepresentation due to already being difficult to interpret the true data statistics requested. ( I.e: It could be four, three, two or one)

I can imagine one reason i would not be sent the costs potentially, is if the answer were none or if the data i requested was not sought. Although i have not been informed it was not sought and i would have thought i would have therefore been informed if the answer was none, that it was none.

Yours sincerely,

M M Simmons

## **Annex F – complaints procedure**

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your FoI 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