9 January 2019

Dear A. Liberadzki

Re: Freedom of Information – 51456

Thank you for your e-mail of 7 December 2018, in which you ask for information regarding statistics on involuntary removals (deportations) carried out by commercial airlines. Your query has been handled as a request under the Freedom of Information Act 2000.

You have asked:

--Re: Removals carried out:--
1a. In 2018, how many times has direction been given to compel an airline to carry out an involuntary removal of persons subject to immigration control, pursuant to Schedule 3 of Immigration Act 1971?
1b. In 2018, how many times has direction been given to British Airways to carry out any such involuntary removal?
1c. In July of 2018 you provided a response to a separate FOI request (#48932) published here on WhatDoTheyKnow.com that includes an annex provided by Home Office listing specific charter flights carrying out involuntary removals (see: https://www.whatdotheyknow.com/request/4...). Could you please provide a similar list of involuntary removals in 2018 carried out by commercial carriers on behalf of the Home Office? If that is not possible, could you please provide a tabulated count of how many removals were carried out by each commercial airline used in 2018, specifically indicating the number of deportations carried out by each individual airline? If this is not possible, could you please provide that count specifically for British Airways?

--Re: Offenses to airlines:--
2a. In 2018, how many times has an airline, or an airline’s agent, been charged with an offense under section 27(1)(b)(iii) of Immigration Act 1971 (see: https://www.legislation.gov.uk/ukpga/197...), which states that “A person shall be guilty of an offence [...] if, as owner or agent of a ship or aircraft [...] he fails, without reasonable excuse, to make arrangements for the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act; or under the Immigration and Asylum Act 1999; or he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2; or he fails, without reasonable excuse, to comply with any other requirement imposed by or under Schedule 2”?
2b. In 2018, how many times has an airline, or an airline’s agent, been convicted of the same offence?
2d. In 2018, how many times has British Airways been charged with such offense, and how many times has British Airways been convicted with such offense?

--Re: Commercial carrier contracts:--
3a. Could you please confirm that the Home Office currently has a contract with British Airways for the involuntary removal of persons subject to immigration control? Could you please provide that contract from the Home Office central contracts database, or elsewhere?
3b. What amount has the government paid in 2018 to British Airways pursuant to this contract or arrangement? What is the length of the contract and total anticipated cost?

--Re: Windrush:--
4a. 991 seats were booked on commercial flights to remove people to the Caribbean who were suspected of being in the UK illegally, according to figures provided by the immigration minister Caroline Nokes following a series of parliamentary questions (see: [https://www.theguardian.com/uk-news/2018...]). Could you please provide the name of the air carrier used for each removal? If that is not possible, could you please provide the number of a) removal flights, and b) individuals involuntarily removed, carried out by British Airways between 2010 and 2018 to the Caribbean?
4b. In the same report, Home Secretary, Sajid Javid, told MPs that 63 people may have been wrongfully deported to Caribbean countries and that the Home Office was investigating. Could you please provide the name of the air carriers used for each of these 63 individuals? If that is not possible, could you please provide how many of the 63 removals were carried out by British Airways?

We are now in a position to provide a full reply to your request. I am able to disclose the following information and arguments for and against disclosure in terms of the public interest, with the reasons for our conclusion, are set out in the enclosed Annex.

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 foirequests@homeoffice.gsi.gov.uk, quoting reference 51456. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

Yours sincerely

Immigration Enforcement Secretariat
Annex

Freedom of Information request from A. Liberadski (reference FOI 51456)

1. Removals carried out, sections (a), (b) and (c)
2. Offences to airlines, sections (a), (b) and (d)
3. Commercial carrier contracts, sections (a) and (b)
4. Windrush, sections (a) and (b)

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under sections 31(1)e and 43(2) of the FOIA. These provide that information can be withheld if its disclosure would have a detrimental effect on the Home Office and its ability to operate effective immigration controls by carrying out removals or would, or would be likely to, prejudice the commercial interests of any persons (including the public authority holding it).

Section 31(1)e provides that information may be exempt if its disclosure would, or would be likely to, prejudice the operation of the immigration controls. Section 43(2) provides that information may be exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any persons (including the public authority holding it).

Public interest test in relation to sections 31(1)e and 43(2)

Some of the exemptions in the FOIA, referred to as ‘qualified’ exemptions, are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in maintaining the exemption. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The ‘public interest’ is not necessarily the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. Transparency and the ‘right to know’ must be balanced against the need to enable effective government and to serve the best interests of the public.

The FOIA is ‘applicant blind’. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone.

Considerations in favour of disclosing the information

Disclosure of this information into the public domain would provide transparency about how the Home Office makes use of airlines in the return of immigration offenders.
Considerations in favour maintaining the exemption

By providing the information requested we would be likely to commercially damage airlines and discourage them from co-operating with the Home Office on future occasions. This would have a detrimental effect on the Home Office and its ability to operate effective immigration controls by carrying out removals, which is in the public interest.

By disclosing such detailed information it would prejudice airlines utilised by the Home Office. In summary, if we were to disclose the information you have requested, it could be used to target the airlines and commercially damage them; it may also prejudice potential passengers against travelling with the airlines and thus affect their revenue.

Conclusion

We conclude that the balance of the public interest lies in maintaining the exemption and withholding the information.