

Brian Hudson  
Email: request-743180-36882c42@whatdotheyknow.com

10 June 2021

Dear Mr Hudson

**Freedom of Information request (our ref:63534): internal review**

Thank you for your email of 29 April 2021, in which you asked for an internal review of the response to your Freedom of Information request. Your request of 31 March 2021 asked for the names of the author of Research Report 122 (Review of the Controlling or Coercive Behaviour Offence) and the names of each member of the steering committee and their respective roles on the steering committee. Your request can be viewed in full at **Annex A**.

I apologise for the delay responding to your request. The Home Office aims to reply to requests for an internal review within 20 working days, or exceptionally 40 working days. I am sorry for the delay in your case.

I have now completed the review and have assessed the substance of the response provided to you. I can confirm that I was not involved in the initial handling of your request. I apologise for the delay in sending you a response.

The FOI response explained that the information requested was exempt from disclosure under section 40(2) of the FOIA. Reference was incorrectly made to the 1998 Data Protection Act. You were also informed that the role of each member of the steering group was to review and provide comments on the report. The full text of the response can be found in **Annex B**.

The review is based on the points you have raised in your internal review request, which can be found in full at **Annex C**.

The crux of your complaint is that you were not satisfied with the response you were given.

You state that Article 6(f) of the GDPR allows for the lawful processing of personal data where there is a legitimate interest and believe that in this instance there is a legitimate interest in terms of a general requirement for transparency in public life.

The first principle in Article 5 to the GDPR states that processing of data shall be lawful, fair and transparent.

In this case the names in scope of this request are officials below the grade of Senior Civil Servant or are third parties, and they have a reasonable expectation that their names will not be made public. Whilst you refer to Article 6(1)(f) as a lawful basis for the disclosure, we do not consider that disclosure of this information is necessary for the purpose of a legitimate public interest. Even if it were, we consider that this would be overridden by the interests of those concerned.

I am therefore satisfied that disclosure of the information in this case would contravene the first data protection principle and that the exemption at section 40(2) applies, by virtue of the condition at section 40(3A)(a).

I am sorry if this is disappointing, but I hope the explanation above has helped explain the reason for the response in this case.

This completes the internal review by the Home Office.

Yours sincerely

S John  
Information Rights Team

**Annex A- original FOI Request**

From: Brian Hudson <request-743180-36882c42@whatdotheyknow.com>

Sent: 31 March 2021 21:40

To: FOI Requests <FOIRequests@homeoffice.gov.uk>

Subject: Freedom of Information request - **Author and Steering Committee for Research Report 122 - Review of the Controlling or Coercive Behaviour Offence**

Dear Home Office,

**Please provide the names of the author of Research Report 122 (Review of the Controlling or Coercive Behaviour Offence) and the names of each member of the steering committee and their respective roles on the steering committee.**

Yours faithfully,

Brian Hudson

## **Annex B- original response**

Crime and Policing Analysis Unit  
2 Marsham Street  
London SW1P 4DF

Dear Brian Hudson,

Reference: FOI 63534

Thank you for your email on 31 March 2021, in which you requested the names of the author of Research Report 122 and the names of the members of the steering committee and their respective roles.

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

The Home Office has obligations under the Data Protection Act 1998 (DPA) and in law generally to protect personal data. We have concluded that the information you have requested is exempt from disclosure under section 40(2) of the FOIA, 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 DPA. Section 40(2) is an absolute exemption, which does not require a public interest test.

We can disclose that the role of each member of the steering group was to review and provide comments on the report.

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.gov.uk](mailto:foirequests@homeoffice.gov.uk), quoting reference 63534.

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,

Tom Trower  
Crime and Policing Analysis Unit

## **Annex C – internal review request dated 29 April 2021**

-----Original Message-----

From: Brian Hudson <request-743180-36882c42@whatdotheyknow.com>

Sent: 29 April 2021 09:51

To: FOI Requests <FOIRequests@homeoffice.gov.uk>

Subject: Internal review of Freedom of Information request - Author and Steering Committee for Research Report 122 - Review of the Controlling or Coercive Behaviour Offence

Dear Home Office,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Home Office's handling of my FOI request 'Author and Steering Committee for Research Report 122 - Review of the Controlling or Coercive Behaviour Offence'.

Thank you for your recent response in the above FOIA request. I request an internal review into the outcome of the FOI which I believe is deficient in law.

Firstly I would like to point out that the relevant law you refer to has been superseded by the Data Protection Act 2018 (DPA).

I attach a link to the Information Commissioners Office advice in relation to Personal information in regards to section 40 of the FOIA.  
<https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fico.org.uk%2Fmedia%2Ffor-organisations%2Fdocuments%2F1213%2Fpersonal-information-section-40-regulation->

You correctly identify that my request relates to the personal information of others, their personal names, covered by Section 40 (2) of the regulations.

I refer you to page 13 of the advice. You are obliged to consider if there is an article 6 lawful basis for processing the personal data. Article 6 (f) allows for the lawful processing of personal data where there is a legitimate interest.

Article 6 (1) (f) states it is lawful where... "processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child."

In this instance there is a legitimate interest in terms of a general requirement for transparency in public life. This particularly applies in this case as the disclosure of the personal data would demonstrate accountability.

Other than the names of the individuals, the comments and opinions of the individuals have been published in their official and professional capacity

entirely for the purposes of public disclosure, in a topic of significant public interest. The comments and opinions are widely disseminated to influence public policy.

Consideration should be taken to any specific request you have received from the authors of the report, or the members of the steering committee, objecting to the publication of their names in relation to their personal data. However it is unlikely that any such objection would be put forward, as the publication of the opinions and comments was clearly intended for the public from the outset. Even in the event of such an objection being received, it is unlikely that such an objection could overcome the legitimate interest of transparency and accountability to the public in this instance.

To further assist you, I refer you to separate ICO guidance on the disclosure of the personal information of others in relation to the DPA.  
<https://gbr01.safelinks.protection.outlook.com/?>

I refer you to the specific example provided:

"Example: An individual makes a subject access request to their local council for a copy of all the information it holds on them. The information held includes several social services reports. The reports contain the personal data of the individual, a family member and a social worker. The council employs the social worker in connection with its statutory social work service, and they wrote the reports in their official capacity as a social worker. As such, it is reasonable for the council to provide the social worker's personal data to the requester in response to the subject access request. However, the council must either have the consent of the family member or consider whether it is reasonable to disclose their personal data without consent. If the council does not have consent, it is likely that it needs to reconcile the individual's right of access in respect of any duty of confidence owed to the family member."

## **Annex D – Complaints Procedure**

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

<https://ico.org.uk/make-a-complaint/>