



Home Office

Shared Services
Directorate
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London SW1P 4DF

020 7035 4848 (switchboard)

www.homeoffice.gov.uk

Amit Hidri
request-211716-28248b69@whatdotheyknow.com

Dear Amit Hidri

Freedom of Information request (our ref:31775): internal review

Thank you for your e-mail of 27 June 2014, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about the destruction of biometric information about the family member of an EEA National.

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 the response correctly informed you that the Home Office did not hold the requested information, and provided you with a link to the website where it could be accessed: however, it should have provided the title of the relevant legislation, and guidance on how it could be found. For further explanation, see paragraphs 4–10.

Yours sincerely

D Pottinger
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Amit Hidri (reference 31775)

Responding Unit: International and Immigration Policy Unit (IIPG)

Chronology

Original Fol request:	16 May 2014
IIPG response:	16 June 2014
Request for internal review:	27 June 2014

Subject of request

1. The request asked for information about the retention of biometric data about family members of EU nationals. For the full text of the request see **Annex A**.

The response by IIPG

2. The response informed Amit Hidri that the Home Office did not hold the requested information, and provided a link to legislation.com where details of all legislation can be found.

The request for an internal review

3. The internal review request asked for guidance on how to access the relevant legislation on legislation.com, and challenged the statement that guidance on the subject was not held by the Home Office. The original IR request dated 16 June was not received in the Home Office, as it was sent to the 'FOI responses' inbox, which does not accept incoming emails.

Procedural issues

4. The Home Office received Amit Hidri's request via email on 16 May 2014.
5. On 16 June 2014 the Home Office provided Amit Hidri with a substantive response, which represents 20 working days after the initial request. Therefore, the Home Office complied with section 10(1) by providing a response within the statutory deadline of 20 working days.
6. The response confirmed that the Home Office did not hold the requested information, but that it was available by other means. A link to the relevant website was provided.
7. Amit Hidri was informed in writing of the right to request an independent internal review of the handling of his request, as required by section 17(7)(a) of the Act.

8. The response also informed Amit Hidri of the right of complaint to the Information Commissioner, as set out in section 17(7)(b) of the Act.

Consideration of the response

9. IIPG informed Amit Hidri that the requested information was available via the legislation.gov website, and provided a link. It would have been helpful to have provided the title of the legislation in question, and guidance on how to find it on the website.

The Immigration and Asylum Act 1999 is at the following link:

<http://www.legislation.gov.uk/ukpga/1999/33/part/VII/crossheading/fingerprinting>

The UK Borders Act 2007 chapter 30 section 5 here:

<http://www.legislation.gov.uk/ukpga/2007/30/section/5>

The Protection of Freedoms Act 2012 at:

<http://www.legislation.gov.uk/ukpga/2012/9/contents>

10. If you type 'Biometric' into the search box on the home page of legislation.com, (where it says 'title') you will also come up with a list of statutory instruments (amendments to legislation) relating to the retention and destruction of biometric data. <http://www.legislation.gov.uk/all?title=biometric%20>

Conclusion

11. The response was sent within 20 working days; consequently the Home Office complied with section 10(1) of the FOI Act.
12. Section 1(1)(a) was complied with, as the response clearly stated that the requested information was not held.
13. The response complied with the requirements in section 17(7)(a) and 17(7)(b) as it provided details of the complaints procedure.

Information Access Team
Home Office
[Date]

Annex A – full text of request

Dear Home Office,

Can you please provide me with current guidance relating to the destruction of Biometric Information about the family member of an EEA National.

I understand that the Home Office cannot legally retain such information without the approval of the person, as to do so would breach Article 8 and 14 of the ECHR (as they are not Persons Subject to Immigration Control).

Annex B – full text of response letter

FOI reference 31775

Thank you for your e-mail of 16 May 2014, in which you ask for current guidance relating to the destruction of biometric information about the family member of an EEA National. Your request has been handled as a request for information under the Freedom of Information Act 2000.

The Home Office does not hold the information which you have requested. There is no specific guidance about the destruction of biometric information about the family member of an EEA national. However, there is legislation concerning the destruction of biometric information which you can find on <http://www.legislation.gov.uk/>.

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 31775. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team
Home Office Ground Floor, Seacole Building
2 Marsham Street
London SW1P 4DF
e-mail: info.access@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

J Allen
International and Immigration Policy Group

Annex C – text of IR request – sent to ‘FOI responses’ 16 June and not received in the Home Office

Dear FOI Responses,

Thank you for responding. Please can you direct me to the legislation you refer to in your response to 31775.

I am also requesting that you review your response. I am sure you hold guidance. After all, memorandums explaining legislation are to guide decision makers.

Text of second IR request sent to the correct inbox on 27 June

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 'Destruction of Biometric Data of Family Member of EEA Nationals'.

31775

Please confirm receipt. I previously wrote to you requesting the laws and an internal review

A full history of my FOI request and all correspondence is available on the Internet at this address: <https://www.whatdotheyknow.com/request/d...>

Annex D – 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