

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 February 2023

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

#### Decision (including any steps ordered)

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1. The complainant wrote to the General Register Office ("GRO"), which is part of the Home Office, raising queries about six birth registrations.
2. The Commissioner's decision is that the request was not compliant with section 8(1)(c) (Request for information) of FOIA so the Home Office was not obliged to respond to it. No steps are required.

#### Background

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3. The General Register Office is part of His Majesty's Passport Office and oversees civil registration in England and Wales. It maintains the national archive of all births, marriages and deaths dating back to 1837.

#### Request and response

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4. On 5 May 2022, the complainant wrote to the GRO (her full request is an annex at the end of this notice). The requested information was as follows:

"The fact there are 6 births registers/records are and have remained obsolete from the RON [Registration Online] system out of the million birth records that have been recorded and the ONS [Office for National Statistics] has received the statistical data for those millions of births, raises the following questions:

1. Has the GRO investigated why these 6 births are incomplete and obsolete from the RON system preventing the RON system from legally sending the statistical data to the ONS pertaining to the 6 births registers/records?

1a. If Yes, When (date) and brief description of findings or links to publications and what resolution has the GRO provided?

2. Why hasn't the General Registrar or superintendent registrars performed their duty under S.27(1) to remedy the deficiency, no effort has been made by either to rectify the problem/error?

3. Why hasn't the General Registrar or superintendent registrars contacted the informants to correct their child's incomplete records, so that their birth information can be entered in the RON system and that the statistical data pertaining to 6 births can be electronically sent via the RON system?

Particularly as these 6 births registers/records have not entered on to the RON system but remain held (incomplete) on the Ron system. The correction/new registration would not be breaching S.29(1) of the BADA 1953 [Births and Deaths Registration Act 1953].

4. What Computer system has been used to produce the 6 birth records that are obsolete from the RON system and have been prevented any further processing and issuing of the 6 birth certificates?

5. As the General Registrar has the power to authorise corrections or new registration, will these powers be used to stop the continuous injury to the electronic register as well as the paper register and the breaches mentioned above?

Particularly as these 6 births registers/records have not entered on to the RON system but remain held (incomplete) on the Ron system. The correction/new registration would not be breaching S.29(1) of the BADA 1953.

6. When will the General Registrar supply local registry offices with a scanner printers to capture the signatures of birth, marriage and death records to also create the life record for the public, as described in 8.2.12 of the 2002 White Paper- Vital change?

<https://webarchive.nationalarchives.gov....>

As a member of the public, this error/incompletion of these 6 birth records need to be rectified as soon as possible, there is no reason, no lawful reason why these 6 birth registers/records have been

deliberately obsolete from the electronic and paper register, the electronic and paper register are legally supposed to be identical in compilation. It's time to take accountability or the breaches of various legislation mentioned above will continue for the next 100 years".

5. The Home Office responded on 10 May 2022. It initially refused to comply with the request as the complainant had not stated her name, which is a requirement under section 8(1)(b) of FOIA. It said that, if she did so, it would consider her request again.
6. On 26 May 2022, the complainant provided her name.
7. On 23 June 2022, the Home Office responded. In respect of the first part of the request it advised:

"The General Register Office (GRO), part of Her Majesty's Passport Office can confirm that this information is not held as we are unable to identify the six births. Therefore, we are unable to say if they have been investigated. On a general basis if there are any queries from ONS in the data provided, they would be investigated and resolved by GRO at the time".

8. In respect of the remaining parts it said no information was held. It provided some advice regarding paper registration, and also advised that there were no plans to provide local register offices with printer scanners.
9. On 30 June 2022, the complainant requested an internal review. She referred to the first part of her request saying: "Whilst you state 'we are unable to identify the 6 births', it is obvious that the GRO did not an effort [sic] to contact the ONS to establish the 6 births that obsolete [sic] from the electronic register and why the statistical data pertaining to these 6 births have not never [sic] collected and correlated electronically". She also raised queries about the Home Office's responses to the parts of her request concerning paper records and the provision of scanners/printers.
10. Following an internal review, the Home Office wrote to the complainant on 25 July 2022. Based on the grounds in her request for an internal review it said:

"The crux of your argument is that you believe you have been provided with false information and you have provided further points for consideration. I have carefully considered your comments and consulted with the responding unit. Under section 1 of the FOI Act, upon making a request, a person has the right to be informed whether the public authority holds information of the description specified in the request. There is no requirement to create

information to answer a request. I can advise a thorough search has been conducted and no information has been identified in scope of your request. It is not known which 6 births you have requested information about”.

## **Scope of the case**

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11. The complainant contacted the Commissioner on 7 August 2022, to complain about the way her request for information had been handled.
12. She raised various issues regarding the six births referred to in her request.
13. Whilst the Commissioner notes that these matters may be of genuine concern to the complainant, these concerns fall outside the remit of his duties under FOIA legislation.
14. The Commissioner’s duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of FOIA. FOIA is concerned with the transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

## **Reasons for decision**

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### **Section 8 – Request for information**

15. Section 8 of the FOIA deals with the validity of requests for information and states:

“...any reference to “a request for information” is a reference to such a request which- (a) is in writing, (b) states the name of the applicant and an address for correspondence, and (c) describes the information requested”.
16. The request was clearly in writing and an address was given. When asked to do so, the complainant provided a name. The Commissioner is therefore only considering whether or not the request describes the information requested.
17. Section 84 of FOIA defines ‘information’ for the purposes of section 1(1) of FOIA (ie information which an applicant can request under FOIA) as “information recorded in any form...”.

18. Therefore, not only must the complainant's request satisfy the criteria in section 8 of FOIA, it must also be a request for recorded information in order to constitute a valid request for information under FOIA.
19. In his guidance on section 8<sup>1</sup>, the Commissioner states: "Authorities should ... treat any description that allows the requested information to be distinguished from other information held by the authority as valid under Section 8(1)(c)".
20. The Commissioner also acknowledges that a request in the form of a question will be valid under section 8(1)(c), provided it describes distinguishing characteristics of the information being sought.
21. The Home Office's refusal notice explained that it was not possible to identify from the request, the six particular births she was referring to. Clearly, this presented an opportunity for the complainant, when requesting an internal review, to provide more specific information to enable the Home Office to identify the births in question. However, she did not do so.
22. The Commissioner is satisfied that the Home Office could not begin to search for relevant information without first knowing which births the request refers to. It would not be able to ascertain whether or not any relevant information was held without first knowing what that information was.
23. Accordingly, the Commissioner finds that the request was not a valid request under section 8(1)(c) of FOIA as it did not describe the information being requested. As the Commissioner is satisfied that the request was not a valid request, the Home Office was under no obligation to respond to it under FOIA.
24. It is noted that the Home Office endeavoured to respond to some of the questions raised, so complied with its duties under section 16 (Advice and assistance) of FOIA.

## Other matters

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25. It is noted that **after** receiving her internal review, the complainant made further comments regarding her request; these provided more details about the request, that may have been of assistance to the Home
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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

Office's understanding of it. However, as the Home Office had already undertaken an internal review by this stage, and advised her to bring any remaining concerns to the Commissioner, it was under no obligation to take these comments into account and continue corresponding.

26. It appears that the figures were retrieved by the complainant from an information request made to ONS<sup>2</sup>, with ONS advising, in response to a different request, that:

"The count of live birth records received via the RON to the Office for National Statistics since 2009 (when first implemented) to current date is 9,065,623.

We have received six live birth records in paper format since 2009".

27. Whilst the Home Office is under no obligation to liaise with ONS in order to ascertain further information about these records, this clarification may have assisted it with responding to the request.
28. It is not known whether or not the complainant has made a request to the ONS for details about this statistic, but the Commissioner considers that this may be an appropriate way of obtaining further information.

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<sup>2</sup><https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/birthrecordsreceivedviatherontotheonssince2009to2021>

**Right of appeal**

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29. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Carolyn Howes  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

**Annex - wording of full request:**

“When a birth takes place in England and Wales, upon completion of the electronic hospital notification, were [sic] the child’s surname is recorded as default (regardless of marital status) forms the live register. The hospital notification is then received by local registry office, the GRO and the ONS [Office of National Statistics].

The statistical data received by the ONS is completed upon registration, as stated in the ONS publications

According to the ONS publications

Section 2.1, para. 5 it states

5. Data are validated upon entry into RON [Registration Online system] and the link with the birth notification enables later verification by ONS of those items of data that are present on both the birth notification and the birth registration. Should for any reason RON not be working, paper copies of the birth certificate are used and the data are entered into RON once it becomes available.

Section 2.1, para. 8 it states

8. Data collected by registrars through the RON system are sent to ONS on a daily basis. If a record fails to load an error report is generated by the system and sent to ONS and GRO for investigation and resolution. If an incomplete record is received GRO will investigate it and provide resolution.

<https://www.ons.gov.uk/peoplepopulationa...>

From the statistical data received from 2009 to date via the RON system, there are 6 births that were received via the paper format.

These 6 births are and remain obsolete from the RON system- electronic register for over 10 years since the RON system was first implemented across every registry office in England and Wales.

This is a result of the RON system not being able to perform data match requirement to legalise the births as described in 2.2.13 of the 2002 White Paper- Vital Change

<https://webarchive.nationalarchives.gov....>

2.2.13 The system for birth registration would be underpinned by the computerised central database (see paragraphs 1.2.1–1.2.9). Health Service birth notifications (see paragraph 2.2.3) would be received and entered onto the system electronically to form an outline birth record. The information required to be given by the person registering the birth would be cross-referenced against the outline record. The system would accept a registration



only if it matched with a birth notification. In circumstances where a person seeks to register a birth and there is no birth notification, the system will allow the person to give the information. A registration will not be complete until that information is matched with the birth notification. In such circumstances the informant will be required to provide contact details should any problem arise when the birth notification is received from the Health Service. Confirmation of the registration would be sent to the informant when the registration is completed.

The primary legislation BADA 1953 has always implemented a data matching requirements to legalise births.

S. 10- only allows for the fathers details to be entered upon the day or registration or by the other methods prescribed in S. 10 or S.10A of the legislation.

It prohibited by law to enters the fathers name unless as prescribed by law. The law (legal dictionary) defines 'Name' as first name i.e. John and surname i.e Pope

S.14 - allows for re-registration for those whose are married after the birth of the child.

Cases were [sic] parents are already married are irrelevant to this FOI but were they have been solo registrations and neither of the above sections of law applies or are being complied with then by law registers are only required to record the child's surname as the mothers surname.

This is reiterated by S.34 (2) ... shall not be evidence of birth... unless it is signed by some person who is the informant and to be such a person (required or permitted by law).. at the date of entry.

The RON system has prevented the system from processing or issuing these 6 births certificates that still remain obsolete from the RON system for over 10 years and this is why the RON system has been unable to send the statistical data pertaining to these 6 births electronically to the ONS.

This always means that the 6 births registrations are incomplete, this is legally required to be completed within 6 weeks from the date of birth and that any birth certificate pertaining to these 6 births are illegal regardless of being issued and printed on the stock pile (birth certificates) from evidently another computer and are breeder documents.

Whilst these 6 birth registrations may not have occurred when the recent General Registrar has been in office/power. The General Registrar (whether past, present or future) is the data controller and is responsible for the up-keep of the register as well as the registrars from the local registry office.

There is no accountability of the unlawful processing of data.

The fact there are 6 births registers/records are and have remained obsolete from the RON system, is a breach of S.35 and S.36, the Computer Misuse Act 1990 and a b of ART. 5, 6 and 7, as well as S.6 (Part 6- ART.89) of the DPA 2018 (previously DPA 1998) and ART. 5, 6 and 7 of the UN Convention of Rights of a Child.

The fact there are 6 births registers/records are and have remained obsolete from the RON system out of the million birth records that have been recorded and the ONS has received the statistical data for those millions of births, raises the following questions:

1. Has the GRO investigated why these 6 births are incomplete and obsolete from the RON system preventing the RON system from legally sending the statistical data to the ONS pertaining to the 6 births registers/records?

1a. If Yes, When (date) and brief description of findings or links to publications and what resolution has the GRO provided?

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