



Immigration
Enforcement

Immigration Enforcement Secretariat
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[REDACTED]
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www.gov.uk/home-office

Tuesday 23 April 2024

Dear [REDACTED],

Re: Freedom of Information request – FOI2024/02343

Thank you for your email of 4 March 2024, in which you ask for information about **electronic monitoring**. Your request, which can be found in full at the enclosed **Annex A**, is being handled as a request for information under the Freedom of Information Act 2000 (FOIA).

In relation to question 1, there are no internal or unpublished guidance in relation to the deployment of non-fitted devices. The published guidance for immigration bail can be found at: [Immigration bail \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/immigration-bail).

Annex C attached should assist in answering questions 2, 4, 7, and 9. However, as the contract used by the Home Office to undertake its electronic monitoring activities is owned by the Ministry of Justice, you may wish to also submit these questions to the Ministry of Justice (MOJ) to answer.

The MOJ's Freedom of Information team can be contacted by email at: data.access@justice.gov.uk.

For question 3, the contract used by the Home Office to undertake its electronic monitoring activities is owned by the MOJ, we therefore recommend that you submit your request to them for answer. The MOJ's contact details have been provided above.

To answer question 5 and 6, the guidance for caseworkers for analysing a person's data and documenting signal drops or battery breaches is in our published immigration bail guidance. This guidance can be accessed from the link provided in response to questions 1 above.

To answer question 8, page 48 of the Immigration Bail guidance states that "the decision maker may have access to a decision support tool" and "Whilst the decision support tool may be used to support decision making a decision may be made without using this tool and relying on the guidance set out in EM and linked Supplementary Conditions: review." No decision support tool is in use at present and reviews are conducted manually. However, please see **Annex C, D, E, F, G, H, I and J** for further information.

For question 10, 722 individuals have been transferred to a non-fitted device.

Finally, for question 11, the Home Office has ordered over 5,000 GPS fitted devices and 4,000 non-fitted devices from the MOJ.

Information contained within **Annex C, D, E, F, G, H, I, and J** has been withheld under section 40(2) of the FOIA because of the condition at section 40(3A)(a) where this concerns the personal data of third parties. The Home Office has obligations under data protection legislation and in law generally to protect personal data. This exempts personal data from release if disclosure would contravene any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation and section 34(1) of the Data Protection Act 2018. We believe release would breach the first data protection principle, since it would be unlawful and unfair to disclose the information.

Furthermore, additional information within **Annex C, D, E, and F** has also been withheld under section 31(1) of the FOIA, this exemption relates to law enforcement and the operation of immigration controls, and the public interest falls in favour of applying the exemption.

Further information about exemption from disclosure in terms of the public interest, with the reasons for our conclusion, are set out in the enclosed **Annex B**.

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: **FOI2024/02343**. 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.

A link to the Home Office Information Rights Privacy Notice can be found in the following link. This explains how we process your personal information:
<https://www.gov.uk/government/publications/information-rights-privacy-notice>

Yours sincerely,

Immigration Enforcement Secretariat
ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

Freedom of Information request – FOI2024/02343

Annex A

From: [REDACTED]@duncanlewis.com>
Sent: Monday, March 4, 2024 3:48 PM
To: FOI Requests <FOIRequests@homeoffice.gov.uk>
Subject: [DL Admin] RE: Your Freedom of Information request – FOI2024/01265

Dear Sirs,

This letter comes further to our freedom of information act enquiry submitted on 05 February 2024. This request was responded to in a letter on 21 February 2024 which stated the following:

- That under section 12(1) of the above-referenced act, the Home Office is not obliged to comply with an information request where to do so would exceed the appropriate limit; and
- That question 12 of our request cannot be complied with, as ascertaining the number of individuals subject to electronic monitoring via Non-Fitted Device upon release from detention would require a manual review of all case records that would exceed the appropriate limit under section 12 of the act.

With these suggested amendments in mind, we submit the following requests under the same legislation, and ask you to provide the following information:

1. Any internal memoranda or unpublished policies or guidance outlining the rationale for the deployment of non-fitted devices;
2. Any unpublished policies or internal memoranda or guidance on the transfer of immigration Bailee's from fitted devices to non-fitted devices;
3. Any training materials which HOIE and/or EMS caseworkers received in relation to the provision of non-fitted devices;
4. How the biometric data collected from the use of Non-Fitted Devices is stored, as well as the length of time for which it is stored, and which parties or individuals can access the data;
5. Any guidance or training materials on how a subject's data ought to be analysed in dealing with article 8 submissions, criminal or civil claims, or any other purpose for which the data is analysed;
6. How daily reports into any signal drops or battery breaches are sent from the EMS hub and what the procedure is for documenting them – and how this eventually could lead to a breach of immigration bail;
7. Any guidance, unpublished policies, or reports into the constitution of a breach of immigration bail. This should include:
 - Any pro forma documents used by EMS in communicating a drop in signal or communication from an electronic monitoring device;
 - Any policies, guidance, or memoranda on how EMS and/or HOIE evaluate these drops in signal, when organised, contact with the bailee is arranged, and the timeframes in which action is taken by HOIE
 - Recorded criteria as to when a breach of immigration bail will be considered following a drop in contact through an electronic monitoring condition;
 - Any unpublished policies or internal memoranda in relation to the retention of biometric data;
8. Page.48 of the Immigration Bail Policy Version 18.0, published 30 November 2023 details the use of a decision support tool used to support decision makers in deploying and reviewing Electronic Monitoring conditions in accordance with automated business rules. In relation to this tool, please provide the following:

- Any internal guidance or memoranda on the use of this tool, including training materials;
- Any proforma documents which are used as input for the tool;
- Any proforma documents produced by the tool;

In addition, please answer the following questions:

9. Is there any evidence or internal documentation confirming that the battery life of the Non-Fitted Devices been tested?
10. How many individuals have now been issued a non-fitted device?
11. How many fitted and non-fitted devices does the Home Office have available?

We kindly request that if question 10 cannot be complied with for the same reasons as outlined above, that the Home Office provides the remainder of the information requested regardless within statutory timeframe of 28 days.

If you have any queries, please contact  by telephone on  or by email at @duncanlewis.com.

Yours faithfully,

Duncan Lewis

Public Interest Test in relation to s31(1)(e):

31(1) - Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –
(e) the operation of the immigration controls

Some of the exemptions in the FOI Act, 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 FOI Act 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

There is a general public interest in the disclosure of information to ensure departmental transparency and accountability. There is also a general public interest in providing information to enable the public to understand decisions which may affect them. There is a specific public interest in enabling access to information about how we monitor immigration bailees.

We recognise that there may be a public interest in disclosing this information now and that this may weigh in favour of it being unreasonable to wait for the information to be published.

Considerations in favour of maintaining the exemption

It is in the public interest to ensure that the publication of official information is a properly assessed and sources are protected. The Home Office must ensure that the information intended for publication meets the standards and requirements set for departmental publications. It would not be in the public interest for the Home Office to release this information.

Conclusion

We conclude that the balance of the public interest lies in maintaining the exemption and withholding the information. It is in the overall public interest that the Home Office is able to gather information and ensure that those with electronic monitoring conditions as part of their immigration bail conditions are effectively monitored and managed.