

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by M Khan (reference 11699)

**Responding Unit: United Kingdom Border Agency (UKBA)**

### **Chronology**

Original Fol request:	18/4/09
Acknowledgement:	20/4/09
Clarification sought by UKBA:	24/4/09
Further information received:	25/4/09
UKBA response:	22/5/09
Request for internal review:	1/7/09

### **Subject of request**

1. On 18 April 2009, M Khan (“the applicant”), made a request for information under the Freedom of Information Act 2000 (“the Act”). The request is attached in full at Annex A. I note that this request was signed by Dr H Singh although M Khan’s name is at the head of the request and is on all other correspondence. I have therefore only referred to M Khan as the applicant in this report.

### **The response by UKBA**

2. The applicant’s request was acknowledged as being dealt with under the terms of the Act on 20 April.
3. On 24 April, UKBA sent the applicant an e-mail asking for clarification of their request as the exact scope of the information requested was unclear. This request is attached at Annex B.
4. The applicant responded by e-mail on 25 April, included at Annex C.
5. On 22 May, UKBA sent a response to the applicant. They were advised that information on how to make a complaint could be found on UKBA’s website. The applicant was also advised that the complaints procedure applied to all members of UKBA staff including Lin Homer, and that the guidance included making complaints about the professional conduct of staff.
6. UKBA added that the complaints procedure guidance did not apply to customers dissatisfied with the decision on their case, and that the decision letter they received would explain whether they could appeal

and how to do so. The response interpreted the information contained in the applicant's e-mail of 25 April as complaining about a decision relating to their particular case.

### **M Khan's request for an internal review**

7. On 1 July, the applicant requested an internal review of UKBA's handling of their request 'FOI for submitting complaint against Lin Homer, Chief Executive of Borders Agency.' The applicant provided no specific reasons for requesting the review.

### **Procedural issues**

8. I note that the original FOI request was acknowledged promptly and, following clarification sought from the applicant, the response was sent within the 20 working day time limit thereby complying with the requirement of section 10(1) of the Act.

### **Consideration of the response**

9. I have considered the original UKBA response to the applicant's request.
10. Although M Khan mentioned the Act in their request, the part of it which asked for details of how to make a complaint against Lin Homer should have been responded to as general correspondence rather than under the Act.
11. That said however as the request was dealt with under the Act it falls to be considered accordingly as part of my review.
12. UKBA's response confirmed that the complaints procedure guidance was publicly available on the Agency's website and as such the request for information was refused under section 21 of the Act.
13. The response also advised that the complaints procedure did not apply to people dissatisfied with the decision on their case and that their decision letter would explain any right of appeal they might have.
14. I note that the applicant also asked about the operational structure of two UKBA departments in terms of staffing and management. No response was provided in respect of this part of M Khan's request. Although the applicant's request for an internal review did not refer to this part of their request being unanswered, for the sake of completeness I would ask M Khan to confirm whether they are still seeking a response to this request for information.

### **Advice and assistance** *(if applicable)*

15. Shortly after receiving the request, UKBA sought clarification from the applicant about particular points contained within their request to enable the Agency to provide them with the correct information.
16. The response to the applicant's request provided advice about UKBA's complaints procedure guidance and also differentiated between the procedure for making a complaint and someone being unhappy with the decision on their individual case.
17. Although the request for information was refused under section 21 of the Act, UKBA offered to assist the applicant if they had any difficulty accessing the information.

### **Conclusion**

18. I conclude that UKBA's response to the part of M Khan's request relating to guidance on how to make a complaint against Lin Homer although correct, should not in fact have been dealt with under the Act.
19. Following enquiries made with UKBA, I have established that the applicant is unhappy with a decision to refuse them leave to remain. This is not a matter that falls to be dealt with under the Agency's complaints procedure. The applicant should instead refer to their decision letter which will provide details of any right of appeal and what this is.
20. UKBA failed however to respond to the part of the applicant's request regarding the operational structure of two of the Agency's departments. M Khan is asked to confirm whether they are still seeking this information.

**Information Access Team**  
**Home Office**  
**22/2/10**