

Mr Colin Yeo

<mailto:request-55371-08d2ddb3@whatdotheyknow.com>

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Our ref: 17174

12 January 2011

Dear Mr Yeo,

Thank you for your e-mail of 20 December 2010. Your e-mail has been treated as an FOI request under the Freedom of Information Act 2010. You have asked:

“Please disclose any or all documents setting out the criteria to be applied to so called 'Legacy' cases by UKBA officials when taking decisions on such cases.”

I can confirm that the UK Border Agency holds the information that you have requested. However, I have decided not to communicate this information to you, pursuant to the exemptions under section 31(1) (e) of the Freedom of Information Act 2000.

This allows us to exempt information if disclosure would be prejudicial the operation of immigration controls. If the requested guidance were to be released then it could be used by someone to circumvent our immigration processes in order to achieve a more favourable outcome.

I have considered the public interest there may be in the UK Border Agency being accountable for the quality and the transparency of its decision making. However, the guidance requested includes reference to how backlog cases including individuals with criminal convictions will be reviewed. If we were to disclose this information it could substantially prejudice the operation of our immigration controls. This is because disclosure may result in persons with criminal convictions within the backlog absconding from reporting requirements. There is a strong public interest in ensuring that foreign nationals who have been convicted of criminal acts in the United Kingdom are not able to evade immigration controls. We have concluded that the balance of the public interest identified lies in favour of maintaining this exemption.

I have considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have concluded that the balance of the public interests identified lies in favour of

maintaining the exemption because the integrity of the initial decision making process should be upheld and this is clearly in the public interest.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request. Internal review requests should be submitted within two months of the UK Border Agency sending a substantive reply to your original request and should be addressed to:

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

During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely

E. Tilly
Case Resolution Directorate
Chief of Staff's Team