



Home Office

Shared Services
Directorate
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020 7035 4848
(switchboard)

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Peter Brewster
[request-174287-9dc11349@whatdotheyknow.com](#)

10 January 2014

Dear Mr Brewster,

Freedom of information request (reference: 30222)

Thank you for your email in which you ask for the following information in relation to 'claim of rights' documents:

1. *How many have you received?*
2. *What legal advice did you receive on this subject?*
3. *Any internal correspondence emails memos or notes relating to this matter.*
4. *Reason for Government failure to rebut claims.*
5. *Lawful status of claims.*

Your request has been handled as a request for information under the Freedom of Information (FoI) Act 2000. Please accept my apologies for the delay in responding to your request.

The response to your FOI request can be found in **Annex A** below.

Further to our clarification request please note the new reference (30222) in relation to your FOI request.

Yours sincerely

B. Efunshile
Information Access Team

Switchboard: 020 7035 4848

E-mail: info.access@homeoffice.gsi.gov.uk

Annex A – FOI request and response

Claim of rights documents, how many have you received?

The Home Office has periodically received correspondence on the subject of 'claim of rights'. However the numbers had been too low to assign a specific topic on the correspondence tracking system (CTS). At the time of your request it was not possible to confirm the numbers received as they would have been subsumed under general correspondence. To confirm the numbers received would have required a search of all correspondences, which would have exceeded the cost limit of £600. Under section 12, the Home Office is not obliged to comply with a request for information where to do so would exceed the cost limit. The cost limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request (3½ days work for central government departments).

I can confirm that a new topic for 'claim of rights' was created on CTS on 6 September 2013. Since created the Home Office has received 14 'claim of rights' correspondences, with a standard response sent out.

What legal advice did you receive on this subject?

The Home Office neither confirms nor denies whether it has received any legal advice in relation to 'claims of rights' and relies on the exemption at section 42(2) of the Act. Section 42(2) relates to information subject to Legal Professional Privilege (LPP) and removes the requirement under section 1(1)(a) of the Act, to confirm whether or not information is held. The principle behind LPP is to safeguard openness in all communications between a client and lawyer, to ensure access to full and frank legal advice. Legal advice received (if any) on 'claim of rights' would fall into this exemption.

In addition the Home Office neither confirms nor denies whether it has received any legal advice in relation to 'claims of rights' and relies on the exemption at section 35(3) of the Act. Section 35(3) relates to the formulation or development of government policy and removes the requirement under section 1(1)(a) of the Act, to confirm whether or not information is held.

Whilst it can be argued that a confirmation or denial (on whether or not information is held) would provide transparency and inform public debate, it can also be argued that this could prejudice the development of future policy and the ability of the department to defend its legal interests in this area. In this respect having considered both the arguments for and against, I believe that the balance of the public interest favours maintaining the neither confirm nor deny provision.

Any internal correspondence emails memos or notes relating to this matter.

The exemption at section 12(1) of the Act applies to your request. In order to collate all the emails, memos or notes held on the subject of 'claim of rights' would exceed the cost limit, as a search across different business areas would have to be conducted.

Reason for Government failure to rebut claims

The Home Office does not hold this information.

Lawful status of claims

The Home Office considers that this request falls outside the FOI Act as it is not asking for recorded information.

Annex B

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting your complaint within two months to the below address quoting reference 30222. 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.