



Home Office

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CA Purkis
request-180890-db83f03c@whatdotheyknow.com

Dear Ms Purkiss

Freedom of Information request (our ref: 28415): internal review

Thank you for your e-mail of 14 October 2013, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about government departments and other organisations that UKBA caseworkers use to check information regarding visa applications.

I have now completed the review. I have examined all the relevant papers, and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and assessed the reasons why information was withheld from you. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My conclusion is that UKVI correctly withheld some information from you citing section 31(law enforcement), and refused to confirm or deny whether it held anything further. For further explanation, please see paragraphs 10-17.

Yours sincerely

Diana Pottinger
Information Access Team



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Internal review of response to request under the Freedom of Information (Fol) Act 2000 by C A Purkiss (reference 28415)

Responding Unit: UK Visas and Immigration (UKVI)

Chronology

Original Fol request:	1 August 2013
IMS response:	13 September 2013
Request for internal review:	14 October 2013

Subject of request

1. Ms Purkiss asked for a list of government departments and other organisations that UKBA caseworkers use to check information regarding visa operations. For the full text of the request see **Annex A**.

The response by UKVI

2. UKVI withheld some requested information citing section 31(1)(a) the prevention or detention of crime and (b) the apprehension or prosecution of offenders, and refused to confirm or deny whether any further information was held. For full text of the response see **Annex B**.

The request for an internal review

3. Ms Purkiss asked for a further explanation of why section 31 applied, when some information had been disclosed in response to a previous request submitted to whatdotheyknow.com. For full text of the Internal Review request see **Annex C**.

Procedural issues

4. The Home Office received Ms Purkiss' request via email on 1 August 2013.
5. On 13 September 2013 the Home Office provided Ms Purkiss with a substantive response, which represents 30 working days after the initial request. Therefore, the Home Office breached section 10(1) by failing to provide a response within the statutory deadline of 20 working days.
6. Where a qualified exemption is under consideration, the Act allows departments to exceed the 20 working day response target in order to consider the public interest test fully. As a qualified exemption was engaged in this case, UKVI should have written to Ms Purkiss explaining that further time was required to consider the public interest test, and provided her with a new date by which she should expect a response.



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Thee confirmed that information was held relating to the request, and withheld it in full citing section 31 (1)(a) and (b). It also refused to confirm or deny whether any further information was held citing sections 23(5) – information supplied by, or relating to, security matters and 24(2) - national security.

8. Ms Purkiss was informed in writing of her right to request an independent internal review of the handling of her request, as required by section 17(7)(a) of the Act.
9. The response also informed Ms Purkiss of her right of complaint to the Information Commissioner, as set out in section 17(7)(b) of the Act.

Consideration of the response

Use of exemptions – section 31

10. UKVI confirmed that it held some of the requested information, and withheld it citing section 31(1)(a) and (b) – law enforcement. An explanation of the exemption was provided. Because section 31 is a qualified exemption, this included consideration of the public interest for and against disclosure of the information. I have reviewed the argument, and am satisfied that section 31(1) is engaged, although 31(1)(e) – operation of immigration controls should also have been cited.
11. I am also satisfied that, in this case the public interest falls in favour of withholding the information because detailed knowledge of the sources of information available to caseworkers to check information regarding visa operations would be useful to criminals and those who wish to circumvent immigration controls. Knowledge of the scope and limitations of the checks available would make it easier for those who wish to evade them. This is clearly not in the public interest.

Section 23(5) and 24(2)

12. UKVI also refused to confirm or deny whether any further information was held citing sections 23(5) – information supplied by, or relating to, security matters and 24(2) - national security, and provided an explanation of the exemptions. Section 23(5) is absolute, so it is not necessary to provide public interest arguments for this exemption. I have considered the public interest arguments for and against confirming or denying whether or not further information is held under section 24(2), and am satisfied that the public interest falls in favour of neither confirming nor denying whether any further information is held.

Other matters

13. Ms Purkiss asked why her request had been refused when information had been disclosed in response to a previous request, [reference 11476] submitted via whatdotheyknow.com.
14. Each request is considered on its own merits. Guidance from the Information Commissioner's office states, that "it may be necessary to disregard previous requests; the fact that the public interest may not favour disclosure today does not



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that it would not do so given changed circumstances in the future". The converse also applies.

15. In this case, the disclosure Ms Purkiss cites was three years ago (2010), and the question was not identical to that posed by Ms Purkiss.
16. FOI request ref 11476 asked for the titles of "databases currently maintained (or planned) by the Home Office (or agents acting on its behalf) which record (or are intended to record) information about more than 10,000 British residents". Ms Purkiss' request asks for details of government departments and other organisations that UKBA caseworkers use to check information regarding visa operations.
17. As the request currently under consideration asks for different information, at a later date than the first; there is no reason to presume that disclosure in the first request sets a precedent which would necessitate disclosure in this case.

Conclusion

18. The response was not sent within 20 working days; consequently the Home Office was in breach of section 10(1) of the FOI Act.
19. Section 1(1)(a) was complied with, as the response clearly stated that some of the requested information was held, stated that it was unable to confirm or deny whether any further information was held, and explained why the duty to confirm or deny did not arise in this specific case. However section 31(1)(e) was also found to be engaged.
20. The response complied with the requirements in section 17(7)(a) and 17(7)(b) as it provided details of the complaints procedure.

**Information Access Team
Home Office**



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Annex A – full text of original request

Dear Home Office,

Please could you provide me with a list of government departments and other organisations that the UKBA caseworkers use to check information regarding visa applicants.

For purposes of clarity - what access do Home Office employees have to other government organisations. For example - a caseworker would have access to marital records to check that an applicant's marriage is legitimate etc.

What other organisations do they have access to;
Department of Work and Pensions?
etc.

Which employees at the UKBA have access to these databases?

Yours faithfully,

CA Purkis



Annex B Official text of response from UKVI

Thank you for your email of 1 August in which you requested information on the databases of other organisations the Home Office has access to, specifically

- What access do Home Office employees have to other government organisations?
- Which employees at the UKBA have access to these databases?

Please accept my apologies for the delay in responding. Your request is being handled as a request under the Freedom of Information Act 2000.

The Home Office holds information within the context of your request - however after careful consideration we have decided that this information is exempt from disclosure under section 31(1) of the FOI Act.

In addition, the Home Office neither confirms nor denies whether it holds any further information within the context of your request and cites sections 23-(5) and 24-(2) of the Act.

Section 23(5) is an absolute exemption and requires no assessment of the balance of public interest in its application. Sections 24(2) and 31(1) of the Act are qualified exemptions and do require the assessment of the balance of public interest. An explanation of the exemptions and how they are seen to be engaged towards your request can be found in the annex. **Please note that reliance on the exemptions at sections 23(5) and 24(2) should not be understood as a confirmation or denial that any further information does, or does not exist – or is, or is not held by the Home Office.**

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 the address below, quoting reference [28415]. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response. The contact address for requesting an internal review is below:

Information Access Team
Home Office
Ground Floor,
Seacole Building
2 Marsham Street
London SW1P 4DF

E-mail: FOIRequests@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.



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Adetoro Ojewale
FOI Practitioner



Home Office Annex to letter

Explanation of the exemptions under sections 23(5), 24(2) and 31(1) (a) and (b)

Section 31 (1)(a) & (b) of the Act

The information you have requested is exempt from disclosure under section 31(1) (a) & (b) (law enforcement) of the FOI Act. The exemption is defined in the Act as follows:

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:

(a) The prevention or detection of crime

(b) The apprehension or prosecution of offenders

Section 24(2) of the Act

The Home Office neither confirms nor denies it holds any further information pursuant to the exemption at section 24(2) of the Act. This exemption is defined in the Act as follows:

24(2) The duty to confirm or deny does not arise if, or to the extent that exemption from section 1(1) (a) is required for the purpose of safeguarding national security.

Section 23(5) of the Act

The Home Office neither confirms nor denies that it holds any further information pursuant to section 23(5) of the Act. This exemption is defined by the Act as follows:

23(5) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

Consideration of the balance of Public interest

Some of the exemptions in the FOI Act, referred to as 'qualified exemptions' are subject to a public interest test (PIT). The exemption under section 24(2) is a qualified exemption. This public interest test is used to balance the public interest in favour of disclosure against the public interest in favour of withholding the information.

The 'public interest' is not 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. 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, including those who might represent a threat to the UK.

Section 23(5)

Under the provisions of the Act the exemption at section 23(5) is what is termed as an 'absolute' exemption. To this extent the Home Office is not required to undertake an assessment of the balance of public interest in its application.



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Section 24(2)

The exemption under section 24(2) is a qualified exemption and is subject to a public interest test. The PIT test is used to assess the balance of the public interest for and against the requirement to say whether information is held or not.

Public interest considerations in favour of confirming whether further information is held under section 24(2)

The Home Office recognises that there is a general public interest in transparency and openness in Government. Such openness would lead to gaining deeper public knowledge in matters relating to the processing of Entry Clearance applications.

Public interest considerations in favour of maintaining the exclusion of the duty to either confirm or deny under section 24(2)

Confirming or denying whether information was or was not held on this subject could be useful information to individuals including terrorists and criminals. Therefore the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming or denying whether we hold information.

Public interest arguments in favour of disclosing information under section 31(1).

The Home Office recognises that there is a general public interest in openness and transparency in all Government departments. The release of information would indicate the success of the Home Office in working together with other departments to ensure that proper checks are carried out on applicants.

Public interest arguments in favour of withholding information under section and 31(1).

Disclosure of information would not be in the interest of the Home Office and other Government organisations. To provide details of which other government databases Home Office employees have access to would enable individuals (including criminals) to deduce how the security checks on applicants are carried out and what the checks entail.

Additionally if the Home Office were to disclose the various databases they have access to and which employees have access, this could prejudice the personal security and health and safety of staff.



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Annex C – full text of request for an Internal Review

Please see the full history of my FOI request dated 1st August 2013, which was refused by the Home Office.

<https://www.whatdotheyknow.com/request/aces to data bases#comment-43934>

Please could you be so kind as to inform me why you refused my own request, but were happy to provide Dr G Bevan with nine pages of date base information from the Home Office, which cancels out any concerns you cite in your refusal to provide me with my own information under under section 31(1)

(a) & (b) (law enforcement) of the FOI Act. The exemption is defined in the Act as follows:

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:

(a) The prevention or detection of crime

(b) The apprehension or prosecution of offender

For a full history of Dr Bevan's request, please see below

<https://www.whatdotheyknow.com/request/databases of personal informatio#comment-13002>

Yours faithfully,

CA Purkis

Annex D – complaints procedure

If you remain dissatisfied with the response to your Fol request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF