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Mr Xavier Shanderia

By e-mail: <mailto:request-213155-ade13ae1@whatdotheyknow.com>

20 June 2014

Dear Mr Shanderia,

Thank you for your email of 22 May about the EEA documentation processes. Your email does not fall to be handled as a request for information under the Freedom of Information Act. Instead, it is being handled as an enquiry about Home Office policy and processes.

In your email you requested information about the application process for an EEA Family Permit. Article 5(2) of Directive 2004/38/EC (the 'Free Movement Directive') states that "family members who are not nationals of a Member State shall only be required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law".

Regulation 539/2001 does not apply to the United Kingdom but we have transposed Article 5(2) into our national laws, through the Immigration (European Economic Area) Regulations 2006. Under these Regulations, an EEA Family Permit is the correct form of entry clearance for a third country national family member of an EU citizen who wishes to accompany or join their EU citizen relative in the UK. In common with other similar visa processes, we request the provision of biometric data as part of the application process.

Our ability to take biometric details to check the identity of those who seek to come to visit, or stay in, this country, is of vital importance if we are to keep our borders safe and secure. Biometric information is an important element of our secure immigration system, designed to detect identity fraud and to ensure that when illegal migrants are encountered they can be identified and returned to their country of origin.

In your email you also raise the question of biometric requirements for residence cards issued under Articles 9 and 10 of the Free Movement Directive. In 2012 we consulted the European Commission about proposals to take biometrics for non-EEA nationals who apply for a residence card under Articles 9 and 10. The Commission confirmed that nothing in the Free Movement Directive prevents Member States from including biometric data in residence cards issued to non-EEA family members provided we have due regard for data protection. Other Member States, such as Estonia and Germany, already issue biometric residence cards to non-EEA family members.

Further information and guidance about the process of applying for an EEA Family Permit is available on the Home Office website at <https://www.gov.uk/family-permit>. Further information about the process of applying for a Residence Card is available at <https://www.gov.uk/apply-for-a-uk-residence-card>.

Yours sincerely,

D Morrison

Head of EU Free Movement
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