

Wayne Pearsall
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Web www.ukba.homeoffice.gov.uk

Date 26 February 2013

Ref 26178

Dear Wayne Pearsall,

Thank you for your email dated 27/02/13. Your request has been handled as a request for information under the Freedom of Information Act 2000. I have listed your request for reference.

are ukba staff under instructions to hold applications for zambrano/ eea family permits until this point to limit the possibility of applications for judicial review based on the fact that many applicants will not be able to afford to take the matter to court.

Did the UKBA have any input in the decision to remove family and immigration cases from legal aid?

Can you provide a copy of all correspondence in relation to this decision etc.

The Freedom of Information of Information Act covers requests for held information rather than requests that ask general questions or require an individual's opinion. Therefore, I have treated the above questions under the Act as they are a request for held information. The general questions you have raised have been considered outside the Act and a response to them has been provided in Annex A.

I can confirm that the UK Border Agency does not hold any guidance which instructs caseworkers to 'hold' applications for Zambrano/ eea family permits for reasons relating to forthcoming amendments to the provision of Legal Aid

I can confirm that the UK Border Agency (UKBA) did input into the decision; however, any requests relating to the reform of Legal Aid should be made to the Ministry of Justice (MoJ) and I have provided a link to their website for reference. However, I should point out that any information regarding policy making is likely to be exempt under the Act.

<http://www.justice.gov.uk/information-access-rights/foi-requests>

The Agency does not centrally hold the information you have requested regarding the Agency's input into the process as the information, if held, would be held by individuals and teams that needed to contribute. However, to locate the information you have requested would require indentifying and contacting all members of staff within the Agency who may have contributed and who would then need to conduct a search for the information. However, given the size of the Agency it is not possible to search for and collate the information you have requested.

Moreover, as part of the Home Office, UKBA is not obliged under section 12 of the Freedom of Information Act 2000 to comply with any information request where the estimated costs involved in supplying the information exceed the £600 cost limit. I regret that we cannot supply you with the information that you have asked for, as to comply with your request would exceed this cost limit. This limit applies to all central Government Departments and is based on work being carried out by one member of staff at a rate of £25 per hour, which equates to 3½ days work per request. The costs involved include locating and retrieving information you requested, and preparing our response to you. They do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or disbursements such as photocopying or postage.

However, if you were to refine your request further so that it falls under the £600 cost limit, we will be pleased to consider it further. Although, on this occasion I am unable to suggest how you could refine your request.

Should you wish to refine your request, so that we can provide you with answers to your questions within the £600 cost limit, please write back to me at the above address.

I should also point out that if you were to break your original request down into a series of smaller applications, we might, depending on the circumstances of the case, decline to answer if the aggregated cost of complying would exceed £600.

You should also bear in mind that even if any new request were to fall below the £600 cost limit, some information which we hold on this matter which you have requested may fall to be withheld under the terms of a number of the substantive exemptions contained in Part II of the Freedom of Information Act 2000. These exemptions could also make it necessary for us to extend the period for responding beyond the usual 20 working day target if they involve having to consider the public interest balancing test.

I realise that this reply may be a disappointment to you, but I look forward to hearing from you again shortly should you wish to refine your request. 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 26178. 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

email: info.access@homeoffice.gsi.gov.uk.

As part of any internal review, our 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 to complain to the Information Commissioner, as established by section 50 of the Freedom of Information Act.

Yours sincerely,

Paul Feakins,
Freedom of Information Act Policy Team

Annex A

Are the ukba aware of any link for the fact that it is both family and immigration cases being removed from legal aid.

The Agency is aware that The Legal Aid, Sentencing and Punishment of Offenders Act will come into force on 1 April 2013. Further information on legal reform is available on the MoJ website.

Would the removal of legal aid for immigration and family cases reflect that should only immigration cases be removed from legal aid, legal aid may also be secured for an article 8 claim based on it also being a family case...

Unfortunately your question is not very clear and therefore I am unable to provide a response. However, I would recommend that if you have any questions regarding the changes to legal aid you direct them to the MoJ.