

FS50481909- further info to disclose

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AECIP 69: HIGHLY SKILLED MIGRANT FORUM JUDICIAL REVIEW: JUDGEMENT OF 8 APRIL 08

Introduction

1. New immigration rules for the Highly Skilled Migrant Programme (HSMP) were introduced on 5 December 2006, including stricter rules for those already in the UK who wished to extend their leave under the scheme. A group known as "The HSMP Forum Ltd" requested a judicial review (JR) of the new rules on the grounds (amongst others) that migrants who had already joined HSMP before the rules change had a legitimate expectation that the new extension test would not be applied to them. On 8 April 2008 the High Court ruled in favour of The HSMP Forum Ltd on this point.

Managed Migration Policy have produced a policy document which aims to give effect to the judgement. This document is now available on the UKBA website as part of a news item
<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/hsmforumjudicialreview>.

How will this impact on overseas posts ?

2. The majority of those affected by the ruling are thought to still be in the UK. Some have switched into other immigration categories, other have been awaiting the outcome of appeals and/or the JR decision. These migrants will be dealt with in-country.

3. There are, however, some affected migrants who may have returned to their home countries and whose applications will need to be dealt with at overseas posts (wef 4 August 2008 – see para 6 below). They can be split into two categories, as follows:

4.

a) Those who were refused an extension of stay under the new rules and subsequently left the UK.

- This group will be able to request that their cases are reviewed under the old HSMP extension test which was in place before the rules change.

- As they have the original case files, the HSMP team in Sheffield will do the initial review.

- Posts will need to forward requests to Sheffield, and, if approved by Sheffield, to issue ECs (in Tier 1 General) to successful applicants.

b) Those who left the UK without ever taking the extension test.

- This group must initially apply (overseas) for EC in Tier 1 (General).

- If they do not meet the Tier 1 requirements, they will then be considered (again by ECOs overseas) under the old HSMP extension test

- If successful, they will be issued EC in Tier 1 General, however they will have to provide evidence that:

- Ø their original HSMP leave expired after 7 November 2006 (the date the old HSMP rules were suspended and the new rules made public);

- Ø that they left the UK after that date (ie they were aware of the changes to the rules);

- Ø and that they would have met the requirements for extension under the old rules had they still been in force.

- There will be a time limit on applications in this category, namely until 31 July 2009.

5. The HSMP Forum Ltd have apparently suggested that there are 2000 + people who might seek to return to the UK as a result of this judgement, but we have no clear picture on potential numbers in either category. We do know that 650 HSMP holders failed the new extension test after 5 December, but not how many of these subsequently left the UK. It is even less clear how many may have left without ever taking the test. It seems likely, though, that the posts most affected will be those in countries such as India, Pakistan and Nigeria who dealt with high numbers of HSMP applicants in the first place, and whose applicants may have been less likely to pass the stricter extension test (which requires a minimum English and salary level).

Guidance on applications resulting from the judgement

6. We are currently preparing detailed guidance on how to accept/assess the two types of application which you may receive as a result of this judgement, including length of leave for successful applicants and procedures for dependants. We will need to produce a new "request for review" form as well as making certain amendments to the Tier 1 (General) application form to accommodate the new categories. We are aiming to have everything in place for a start date of 4 August (ie posts will be in a position to accept applications from that date) and will keep you updated on this. In the meantime, as indicated in the news release on the web, enquirers on this issue should be advised that we are working on arrangements to allow them to make their applications and that forms and guidance will be published asap (NB: there is a different timetable for applicants who are still in the UK – full detail are available on the UKBA main website).

7. Further queries on this should be directed to xxxx

Last Updated: 21 July 2008

OPI 255- Introduction to Document Fraud - Mandatory E Learning course All International Group staff who routinely handle and assess travel and supporting documents are required to take the NDFU Introduction to Document Fraud eLearning module on Firecrest by end June 2011.

From FCO UKBA
Precedence LEAD
eGram No. 4479/11
Despatched 10/03/2011 17:08:00 GMT

The use of fraudulent documents by visa applicants poses a threat to our operations overseas. In recognition of this, the NDFU eLearning course 'Introduction to Document Fraud' has been made available on Firecrest and is now mandatory for all International Group staff who routinely consider visa applications and / or have regular contact with passports, other identity documents and supporting documentation (like bank statements, certificates and utility bills).

This course deals with abuse of both travel and supporting documents and is appropriate for all staff handling and assessing visa applications. The course carries no security classification.

It is intended to complement, not replace, classroom-based training and ensures that no one whose responsibilities include examining documents will do so without prior access to basic forgery detection training.

It can be used to provide an introduction for those who are new to the subject or as a refresher for those who have not received any training for some time. It is a developmental opportunity for those who do not often handle documents but who are interested in learning more about forgery. Staff seeking further forgery training and NDFU attachments will be expected to have completed this course.

Completion of the e-learning package including the assessment takes about 1-2 hours although that may vary depending on what you already know. The pass mark is 80% and staff can retake the course until this is achieved. Unfortunately, Firecrest does not generate the certificate. Annual refreshers will be required. Existing staff must complete the course by the end of June 2011 and new officers will be required to complete the course within one month of arrival at post.

Firecrest users may need to register before accessing the FCO e-learning system by contacting the IT helpdesk -

E-mail xxx or call xxx or xxxx

Staff can access the course in the e-learning section of FCO Net by pasting in the link below, then clicking on 'Access e-learning' in the Guidance section. The course is found in the section 'other courses'.

OPI 273 - International Media Handling Guidance

Summary

Following further feedback we have now updated the Media Handling Guidance. In particular, it includes specific guidance on the use of social media by FCO posts on visa and immigration issues plus an updated list of media spokespeople.

Background

In August last year we issued Overseas Media Handling Guidance to overseas UK Border Agency staff.

Many thanks to all UK Border Agency and FCO staff who have worked well with us on many proactive and reactive media issues in the last six months, using the media guidance effectively. We look forward to continuing this work with you.

Following further feedback we have now updated the Media Handling Guidance. In particular, it includes specific guidance on the use of social media by FCO posts on visa and immigration issues plus an updated list of media spokespeople.

This guidance, and the requirement to be media trained and accredited, only applies to UK Border Agency staff and not Heads of Mission or FCO spokespeople, although it does contain some guidance on effective joint working between the UK Border Agency and the FCO overseas.

The key principles of this guidance are that:

- only staff accredited to be UK Border Agency spokespeople should have direct contact with local media.

- UK Border Agency spokespeople should be media trained except in exceptional circumstances

- Unaccredited UK Border Agency staff should not have any direct contact with the media and any enquiries should be referred to International Group Communications and/ or local spokespeople.

An out of hours contact sheet for International Group staff has also been produced (see below)

Principles

- UK Border Agency Regional Directors should be the principal spokespeople for the UK Border Agency overseas with a designated deputy to approve their quotes

- UK Border Agency Operational managers and other staff may be media spokespeople overseas but they should be accredited centrally (see list below) and, except in exceptional circumstances, be media trained.

- Unaccredited UK Border Agency staff should not have any direct contact with the media and any enquiries should be referred to International Group Communications and/ or local spokespeople.

- All media interviews by Agency spokespeople must be first cleared through the Rapid Response Team, as well as their Regional Director (see process map below) and the local mission's press team.

- All proactive press notices must be first cleared by International Group Communications, as well as the Regional Director (see process map below) and the local mission's press team.

- All quotes issued to the media about the work of the UK Border Agency must be issued by a named Agency spokesperson and must be first cleared through the Rapid Response Team, as well as the Regional Director.

- Quotes involving comments on immigration policy should be cleared through the Rapid Response Team, regardless of spokesperson.

- All media queries should first come through International Group Communications and the Rapid Response Team who will liaise with Home Office press office, unless it is an emergency and none of these are available.

- The Rapid Response Team is based in the UK Border Agency Chief Executive's office. They will make sure that all relevant people are copied in and are able to comment on any requests. For a quote or interview covers policy, they may liaise with Home Office Press

Office, policy colleagues and potentially Minister's offices. They have an out of hours e-mail address (see below).

Working with Ambassadors and FCO Spokespeople

Ambassadors and/ or FCO spokespeople also play an important role in communicating migration issues overseas. This guidance does not apply to them but UK Border Agency staff should work closely with them to ensure consistent messaging. Where possible, the following should apply:

Any lines or direct references to the UK Border Agency or its work should be cleared through the Rapid Response Team.

Regional UK Border Agency staff should encourage FCO spokespeople to consult them on messaging around immigration, even if not directly mentioning the Agency.

FCO social media channels should not be used as a way round the UK Border Agency ban on the use of social media (see below). In particular, posts should be aware of resource implications of discussing visa issues on social media and ensure that regional Agency colleagues are content with any proposals.

Social Media

The UK Border Agency does not currently permit the use of social media sites, although a pilot is being planned. For the time being UK Border Agency staff should not create or use social media channels to communicate UK Border Agency messages, or to engage in debates on immigration policies.

We would prefer that FCO social media channels are also not used for visa and immigration issues but recognise the need for Missions to communicate on the full range of government business. Any plans should be first agreed with regional UK Border Agency colleagues and using the proactive process outlined.

See also

Out of hours handling list

International media handling guidance

Last Updated: 22 June 2011

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