



Home Office

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London SW1P 4DF

020 7035 4848
(switchboard)

www.gov.uk

Jade Beade
[Request-267179-9b93f30b@whatdotheyknow.com](#)

16th September 2015

Freedom of Information request - 35455

Dear Ms Beade,

I am writing further to my letter of 8th June 2015, about your request for Border Force guidance about non-EEA family members of British citizens. Your request has been handled as a request for information under the Freedom of Information Act 2000.

Your full request can be found in Annex A.

I confirm the Home Office holds this information and can communicate some of it to you in the enclosed document, titled 'Dealing with EEA Nationals & their family members'.

Some information has been redacted under section 31(1)(e) of the Act. This provides that information can be withheld where its disclosure would, or would be likely to prejudice the operation of immigration controls and the public interest falls in favour of maintaining the exemption.

Arguments for and against disclosure in terms of the public interest, with the reasons for our conclusion, are set out in Annex B.

The document contains some information which is not in scope of your request. This information has been redacted.

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 35455. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Rights Team
Home Office
Forth Floor, Peel 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.

Yours sincerely

L. Picton

Information Rights Team

Switchboard 020 7035 4848

E-mail FOIRequests@homeoffice.gsi.gov.uk

Encl – 'Dealing with EEA Nationals & their family members'

Annex A – Full request

Dear Home Office,

Please could you provide any documents, whether paper or electronic, showing your border policy for admission of non-EEA family members of British citizens with a non-UK residence card obtained under Article 10 of Directive 2004/38/EC.

This is because I want to know whether the UK will accept for entry Article 10 residence cards of family members of British citizens without requiring them to satisfy Regulation 9 of the Immigration (EEA) Regulations before entry. In light of CJEU McCarthy (Case C-202/13), I believe the UK are obliged to accept for visa-free entry all Article 10 residence cards issued by other Member States without further entrance requirements needing to be satisfied.

Yours faithfully,

Jade

Annex B – Public Interest Test – Section 31(1)(e)

Information withheld under section 31(1)(e)

‘Dealing with EEA Nationals & their family members’ (page 16)

Section 31(1)(e) states:

31. Law enforcement:

(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-

(e) The operation of immigration controls

Considerations in favour of disclosing the information

Border Force has a responsibility to conduct its business in an open manner, in line with the Government’s transparency agenda. The disclosure of the information would assure the public that Border Force is committed to conducting thorough investigations to ensure the relationship between the individual and the EEA national is genuine, to ensure only individuals with the right to enter the UK are authorised to do so. This would ultimately increase public confidence in the work of Border Force.

Considerations in favour of withholding the information

The disclosure of the information would provide information on how a Border Force officer determines whether the relationship between the individual and EEA national is genuine. If this information were to be in the public domain, it would provide insight into the interview techniques used by officers and could lead individuals to change their behaviour, to attempt to mislead officials into believing a fraudulent relationship is genuine. This could result in individuals being granted leave to enter the UK when they do not have the right to do so. There is a public interest in ensuring the integrity of the borders and it would not be in the public interest to compromise it.

Conclusion

The public interest is best served by maintaining the exemption and withholding the information.