



Department
for Education

K King
[request-602867-
d38cad70@whatdotheyknow.c
om](https://www.whatdotheyknow.com/request-602867-d38cad70@whatdotheyknow.com)

Briefing and Communications Team,
Part of the Higher Education – Strategy
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www.gov.uk/dfe

Email enquiry form:
www.education.gov.uk/contactus/dfe

27 September 2019

Ref: 2019-0032528

Dear K King,

Thank you for your request for information, which was received on 10 September.

You requested:

Dear Student Loans Company Limited,

In a FOI request here <https://www.whatdotheyknow.com/request/c...> SLC stated that a UK citizen cannot be an EEA migrant worker even if a UK national exercised his EU treaty rights elsewhere before returning to the UK.

How is the above response true when their non eu family members are granted right of residence into the UK under freedom of movement Directive 2004/38/EC, as a family member of an EEA national and issued with an EU residence card accordingly?

Furthermore, the Surinder Singh case established that UK nationals that have exercised their right of residence elsewhere have the same rights as other EU nationals.

The assessing eligibility guidance 19/20 states on page 23 states:

In order to decide whether an EEA national can be classed as a migrant/frontier worker or a Swiss national employed in the UK, SFE should take into account the case law of the European Court of Justice which has established the following principles:

Freedom of movement of workers is one of the fundamental freedoms guaranteed by the EU, therefore the term ‘worker’, which determined the scope of application of that freedom, must be interpreted broadly and not restrictively.

- 1. So can you please clarify in full why the non eu family member living in the UK under the basis of freedom of movement enshrined in the EU Directive 2004/38/EC cannot be assessed under paragraph 6 of Schedule 1 as a family member of an EEA migrant?*
- 2. Can you clarify why a UK national is not considered an EEA migrant by SLC, when the non eu family members are in the UK on the basis of the EU Directive 2004/38/EC and the UK national has to continue to exercise his treaty rights as a qualified person?*
- 3. Can you clarify why family members of EEA migrants are treated differently in terms of assessment and funding when compared to non eu family members of UK nationals that have exercised their treaty elsewhere before returning to the UK, when both non eu family are using freedom of movement under the EU Directive 2004/38/EC?*

I have dealt with your request under the Freedom of Information Act (FOIA) 2000. This does not appear to be for the Department for Education to answer and we therefore advise that you re-submit your request to the Student Loans Company Limited, who will be able to respond to your enquiry. Their email address is: foirequests@slc.co.uk

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way your request has been handled, you should make a complaint to the Department by writing to me within two calendar months of the date of this letter. Your complaint will be considered by an independent review panel, who were not involved in the original consideration of your request.

If you are not content with the outcome of your complaint to the Department, you may then contact the Information Commissioner's Office.

Yours sincerely,

David Lam
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