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Mr Wayne Pearsall
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Our Ref: 26138
13 March 2013

Dear Mr Pearsall,

Freedom of information request (our ref. 26138): internal review

Thank you for your e-mail of 28 February 2013, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about the response provided to you request of 29 January 2013.

I have now completed the review. I have examined all the relevant papers, and have consulted the policy unit which provided the original response. I confirm that I was not involved in the initial handling of your request.

In your request for an internal review you raise three points of concerns:

- 1) the lateness of response;
- 2) whether IS96 reporting conditions is only applicable to a person who is in the UK illegally, and;
- 3) that the response to question 4 of your request was unfair and discriminative and raises concerns about the author of this response.

The only element of the above complaint(s) that falls within scope of this internal review is point (1) – the lateness of the reply. Point (2) constitutes a new request for recorded information and was not a component of the initial request of 29 January. Point (3) appears to constitute a customer service complaint. This does not fall within scope of this review to address. Complaints should be directed to UKBA Customer Complaint Unit. I have provided the contact details for the UKBA customer complaint unit should you wish to pursue this with them directly. The following link below provides information and guidance on how to make a complaint to the UK Border Agency.

- <http://www.ukba.homeoffice.gov.uk/aboutus/contact/makingacomplaint>

The only point therefore of concern to this internal review is therefore point (1); that being the response to your initial Fol request was late. My findings are set out in the attached report. My conclusion is that UKBA failed to comply with section 10(1) of the Act. Its response to your request for information under the Freedom of Information Act was late. I accept that to take longer than 20 working days, to respond to a Fol request falls short of the standards which the Department sets itself. I would like to take this opportunity to apologise on behalf of the Department for the length of time which had been taken to provide you with a response to your request.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your Fol request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Yours sincerely

S.Khanom
Information Access Team
E-mail info.access@homeoffice.gsi.gov.uk

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Mr Wayne Pearsall (reference 26138)

Responding Unit: UK Border Agency (UKBA)

Chronology

Original Fol request:	29 January 2013
UKBA response:	27 February 2013
Request for internal review:	28 February 2013

Subject of request

1. On 29 January 2013 Mr Pearsall submitted a Fol request seeking disclosure of recorded information on IS96 reporting conditions. The full text of Mr Pearsall's request is set out at **Annex A**.

The response by UKBA

2. On 27 February 2013 UKBA responded to Mr Pearsall. UKBA confirmed the information requested fell within the remit of the Fol Act and it responded to the questions in the order in which they were made.
3. In response to questions 1, 2 and 3 UKBA stated that it could not provide the relevant information because the information sought is not recorded in a reportable format. It explained that the Case Information Database (CID) used by UKBA only captures information in certain mandatory fields. Only that information captured and recorded in a reportable format can be disclosed. It explained it may potentially hold the information, but explained in order to establish this it would need to undertake a manual case by case search of all records.
4. Under sections 12 of the Act, UKBA as part of the Home Office is not obliged to comply with an information request where to do so would exceed the prescribed cost limit. It believes, that to provide the information you seek would breach the prescribed cost limit of £600.
5. UKBA provided a substantive response to question 4. Reference is made to the relevant sections of the Immigration and Asylum Act 1999 and Immigration and Asylum (Provision of Services or Facilities) Regulations 2007. The full response can be found at **Annex B**

Mr Pearsall's request for an internal review

6. Mr Pearsall submitted a request for an internal review on 28 February 2013 expressing his dissatisfaction with the late response from UKBA and complaining of the unfairness and discriminative manner in which question 4 of his Fol request has been dealt with. The full text of Mr Pearsall's request for an internal review is set out at **Annex C**.

Procedural issues

7. Mr Pearsall's initial request is recorded as having been received by UKBA on 29 January 2013. In accordance with section 10(1) of the Act Mr Pearsall was due a response to his request by 26 of February 2013 – that is 20 working days following receipt of his information request.
8. UKBA provided a full response on 27 February 2013, that is a day late, and as such it breached section 10(1) of the Act.
9. The response of 27 February 2013 informed Mr Pearsall in writing of his right to request an independent review of the handling of his request, as required by section 17(7)(a) of the Act. The response also informed Mr Pearsall of his right of complaint to the Information Commissioner, as set out in section 17(7)(b) of the Act.

Consideration of the response

10. I have considered the response. I will address here only the point about the response to Mr Pearsall's request being late. As already explained in letter attached with this review that the other two points of complaint do not fall within the scope of this review to address.
11. UKBA breached section 10(1) of the Act. On 27 February 2013 the UKBA provided Mr Pearsall with a substantive response, which represents 21 working days after the initial request. Therefore, the UKBA breached section 10(1) failing to provide a response within the statutory deadline of 20 working days.
12. Having consulted with the Unit in UKBA that provided the initial response, it has become apparent, that due to an administrative error the deadline by which the response was to be provided to Mr Pearsall was incorrectly noted, and as a result the response was submitted to Mr Pearsall a day late.
13. I apologise for any inconvenience caused to you on behalf of the Department because of the delay of a day in providing a timely response to your request. We accept that to take longer than 20 working days, albeit in this case one day longer, to respond to an Fol request falls short of the standards which the Department sets itself.

Conclusion

14. As detailed in my review UKBA failed to comply with section 10(1) of the Act. It is unfortunate that this had occurred, and I apologise for the any inconvenience this may have caused you.
15. I am satisfied that the response was correct and complied with all other relevant and applicable sections of the Freedom of Information Act.

Information Access Team

Home Office

13 March 2013

Annex A: Fol request of 29 January 2013: (Reference 26138)

Dear UK Border Agency,

I am enquiring as to the number of immigrants currently under reporting conditions on an IS96 document.

Please identify the following statistical information - which is kept on computer records for each individual...

Please identify how many people are currently under such restrictions.

what percentage of people have to report and how often:
IE: 10% weekly, 10% bi-monthly, 13% monthly, 20% bi-monthly ETC

What percentage of people are allowed to engage in work / business activities.

Also, what financial help is available to persons on such restrictions as not to engage in work (and therefore support themselves) - how are such people supposed to feed / cloth / home themselves (and their dependants).

also, How is travel funded by the people on an IS96 reporting obligation? - how many "immigrants" claim funds to aid them in reporting.

Please explain what the criteria for claiming such funds is. (such as with Job Seekers allowance, you must be looking for work, not work more than 16 hours, etc etc etc - this is publically available knowledge).

Yours faithfully,

Wayne Pearsall

Annex B: UKBA's original response: (Reference 26138)

Dear Wayne Pearsall,

Thank you for your e-mail of 29 February where you have requested information. This falls to be dealt with under the Freedom of Information Act 2000.

I will respond to your questions in the order in which you have asked them.

Please identify the following statistical information - which is kept on computer records for each individual.

Q1. Please identify how many people are currently under such restrictions.

Q2. What percentage of people have to report and how often: IE: 10% weekly, 10% bi-monthly, 13% monthly, 20% bi-monthly ETC

Q3. What percentage of people are allowed to engage in work / business activities.

We are unable to provide the requested data. We are only able to report on data that is captured in certain mandatory fields on the UK Border Agency's Case Information Database (CID). Additional data relating to reporting centre restrictions and activity are not recorded in a reportable format. Consequently, in order to provide the requested information, we would need to undertake a manual case by case search of records.

As part of the Home Office, the UK Border Agency is not obliged to comply with any information request where the prescribed cost of supplying you with the information exceeds £600. The £600 limit applies to all central government departments and is based on work being carried out at a rate of £25 per hour, which equates to 3½ days work per request. Prescribed costs include those which cover the cost of locating and retrieving information, 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.

We have estimated that to gather and collate the information you have requested would exceed the £600 cost threshold.

If you were to refine your request it may enable us to provide data within the cost threshold. For example, we are able to provide figures on the number of individuals who have been reporting for the latest 3 month period. Please advise if you wish us to provide these data.

Q4. Also, what financial help is available to persons on such restrictions as not to engage in work (and therefore support themselves) - how are such people supposed to feed / cloth / home themselves (and their dependants)

Asylum seekers who would otherwise be destitute can obtain support under section 95 of the Immigration and Asylum Act 1999 ("the 1999 Act") to avoid destitution from the time they arrive in the UK, until their claim is fully determined and they have exhausted their appeal rights. Support is provided in the form of accommodation and subsistence, accommodation only or subsistence only.

All asylum seekers whose applications have been fully determined and have exhausted their appeal rights are required to leave the UK voluntarily as soon as practicable. It is accepted that there will be some failed asylum seekers who are destitute and are unable to leave the UK immediately due to circumstances beyond their control. In these circumstances short-term support

under section 4 of 1999 Act may be provided. Section 4 support is accommodation based, on a no-choice basis, with additional support provided via the Azure Card to the value of £35.39 per person, per week for the purchase of food, essential toiletries and other items as specified within the Immigration and Asylum (Provision of Services or Facilities) Regulations 2007 ("the 2007 Regulations"). The UK Border Agency is explicitly prevented by legislation from providing section 4 support in the form of cash.

Some people given Temporary Admission will be neither an asylum seeker or failed asylum seeker. Those who have been granted Temporary Admission have no immigration status, are liable to removal and can generally avoid a breach of their rights by returning home. It is the claimants' responsibility to return home and not the Secretary of State's responsibility to support those who choose to remain in the UK illegally.

Q 5.also, How is travel funded by the people on an IS96 reporting obligation? - how many "immigrants" claim funds to aid them in reporting.

Section 69 of the Nationality, Immigration and Asylum Act 2002 states that the Secretary of State may make a payment towards the cost of travelling expenses to enable persons to comply with reporting restrictions.

The UK Border Agency has policies in place to financially assist some individuals to enable them to comply with reporting restrictions. Asylum seekers living outside of the 3 mile radius of their reporting centre who are in receipt of asylum support are eligible to receive assistance with travelling expenses for reporting.

Full details of the UK Border Agency's guidance for the issuing of travel expenses can be found at section 22a.3 of Chapter 22a of the Enforcement Instructions and Guidance at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsection>"

Q6. Please explain what the criteria for claiming such funds is.(such as with Job Seekers allowance, you must be looking for work, not work more than 16 hours, etc etc etc - this is publically available knowledge

The criteria for claiming section 95 support is publicly available at <http://www.ukba.homeoffice.gov.uk/asylum/support/>

The criteria for claiming section 4 support is publicly available at <http://www.ukba.homeoffice.gov.uk/asylum/support/apply/section4/>

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 26138 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
e-mail: FOIRequests@homeoffice.gsi.gov.uk

Yours sincerely
UKBA Freedom of Information Team

Annex C: Request of 28 February 2013 for an Internal Review : (Reference: 26138)

Dear Freedom Of Information Team (IND),

First of all, I am rather disapointed that the response to my FOI was infact late.

secondly, I do not feel that the response provided was a very fair response to those on an IS96 reporting condition.

particularly this quote:

Some people given Temporary Admission will be neither an asylum seeker or failed asylum seeker. Those who have been granted Temporary Admission have no immigration status, are liable to removal and can generally avoid a breach of their rights by returning home. It is the claimants' responsibility to return home and not the Secretary of State's responsibility to support those who choose to remain in the UK illegally.

Does this mean that an IS96 reporting condition is only applicable to a person who is in the UK Illegally?

If this is the case, then my wife who is on an IS96 reporting condition therefore does not have to comply with the restrictions placed upon her.

Case C34/09 of the ECJ ruled that a parent of an EU citizen is legally entitled to live and work in the memberstate of which the EU citizen is a citizen of.

IE: the non eea national parent of a british child which is dependant upon them is allowed to live and work in britain.

As you have made it clear that only illegal enterants ETC are required to report it seems rather clear to myself that therefore my wife does not need to comply with the reporting restrictions placed upon her!

I also refer specifically to this section also:

It is the claimants' responsibility to return home

The problem with this, is it seems rather discriminative to a person to tell them to basically go home. Please explain why the author of the reply to this FOI is in such a public presence?

Please accept this message as a request for both an internal review of the answer - requesting a better response...

as well as a request for this to be treated as a complaint on the grounds that an assumption has been made to provide the answer - a rather discriminative assumption.

Yours sincerely,

Wayne Pearsall

