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FOI Reference: 56419

22 November 2019

Dear Mr Persey

Thank you for your enquiry of 12 November in which you requested information on the EU settlement scheme. Your request has been handled as a request for information under the Freedom of Information Act 2000.

Information Requested

Please provide all policy documents that set out your approach to adults lacking mental capacity who are eligible to apply to the EU Settlement Scheme.

In particular, please provide policy documents setting out your "comprehensive vulnerability strategy" for the EU Settlement Scheme.

Response

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 35(1)(a) of the FOIA. This provides that information can be withheld on a live policy issue and any other information which relates to current policy formulation.

Arguments for and against disclosure in terms of the public interest, with the reasons for our conclusion, are set out below in Annex 1.

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 foirequests@homeoffice.gov.uk, quoting reference 56419. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request will be reassessed by staff 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

J Slater
Central Operations

We value your feedback, please use the link below to access a brief anonymous survey to help us improve our service to you:
<http://www.homeofficesurveys.homeoffice.gov.uk/s/108105TAZNG>

Annex 1

Public interest test

Some of the exemptions in the FOI Act, referred to as ‘qualified exemptions’, are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The ‘public interest’ is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The ‘right to know’ must be balanced against the need to enable effective government and to serve the best interests of the public.

The FOI Act is ‘applicant blind’. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

Considerations in favour of disclosing the information

There is a general public interest in policy relating to the EU settlement scheme. Disclosure of the information requested would increase accountability and transparency and enhance the public’s understanding of current policies relating to applications. All these factors are in the public interest and there is some weight to be given to the considerations in favour of disclosing the information.

Considerations in favour of withholding the information

It is important to protect the integrity of the policymaking process, and to prevent disclosures which would undermine this process and result in less robust, well considered or effective policies. It ensures a safe space to consider policy options in private. There is a risk that disclosing the policy that is yet to be agreed could cause confusion and anxiety for a very vulnerable group of people. It is necessary for the information to be made public once it has been agreed and accurate information, along with guidance, can be made available to the public.

We conclude that the overall balance of the public interest lies in favour of withholding the information to ensure that the Home Office can publish guidance and policy in a managed and coherent way.