



Home Office

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Wayne Pearsall
Via e-mail to request-147779-d9b300cc@whatdotheyknow.com

05 December 2013,

Freedom of Information request (our reference: 29818)

Dear Mr Pearsall,

I am writing further to the Information Commissioner's Decision Notice of 31 October, which found that the Home Office had failed to furnish a response to your request for information under the Freedom of Information Act (2000). Your request has now been passed to me to answer. I apologise for the failure to answer your original request in time and to your satisfaction.

You requested the following information:

Can you please provide a list of all funds which are accessible to a partner of a British citizen when they have 'no recourse to public funds'. UKBA must hold information in some form about what a British citizen's family member is entitled to receive and would not be considered public funds. Even if normally funds would be considered public funds. Please supply all documents, instructions and guidance provided to DWP/UKBA staff in relation to this. When a British citizen claims contribution based Job Seekers Allowance what affect does their partners No Recourse to public funds have on the benefit claim? Considering that CB JSA is not listed as a public fund.

What information and guidance has been given to DWP staff to ensure that they are aware about the status of Contribution based benefits and the true meaning of the stamp 'No Recourse to Public funds'.

Have UKBA made DWP/UKBA staff aware of the true definition of public

funds? Please provide a copy of all documentation relating to the above which surely the UKBA must hold a copy of."

I can confirm that the Home Office holds information in relation to your request. Section 21 of the Freedom of Information Act 2000 provides an exemption from disclosure where the information requested is otherwise reasonably accessible. As the information is already in the public domain, the Home Office is exempt from providing it. The information that you require is available at the following locations.

Information on what constitutes public funds is available on the Home Office website: <http://www.ukba.homeoffice.gov.uk/visas-immigration/while-in-uk/rightsandresponsibilities/publicfunds/>

The public funds modernised guidance, which is the Home Office casework guidance on which UK public funds a foreign national may claim, is available here:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/cross-cut/public-funds/funds.pdf?view=Binary>

In relation to those who are in the UK as the partner of a settled person, guidance is available on what benefits the settled person may be entitled to claim and still satisfy the financial requirements to obtain permission for their non settled partner to travel to or remain in the UK. This guidance is available here:

<http://www.ukba.homeoffice.gov.uk/visas-immigration/partners-families/citizens-settled/spouse-cp/can-you-apply/financial/>

Further information is contained in this document at paragraph 3.6:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/chp8-annex/section-FM-1.7.pdf?view=Binary>

The Immigration Rules list the benefits that are considered to be public funds for immigration purposes at Rule 6:

<http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/introduction/>

You have asked about guidance available to DWP staff in relation to the definition of public funds in immigration legislation. The Home Office does not play a part in the administration of benefits and does not provide guidance to staff in the Department for Work and Pensions (DWP). It is the responsibility of the DWP to provide their staff with such guidance. This guidance is contained in a number of guidance documents at the DWP. You may access the guidance that DWP provides to their decision makers on their website, starting first with Chapter C1: <https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

You also asked whether a settled partner of a migrant may claim contribution based Job Seekers Allowance. This is a matter for the DWP to consider and answer. As mentioned above, the Home Office does not administer the provision of benefits.

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 29818. 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 who were not involved in providing you with this response.

Yours sincerely

Andy Woodgate
Information Access Team

Annex A

If you remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

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