



**Customer Services  
Improvement Directorate.**  
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UK Border Agency  
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L3 9PP

Nadia Akhtar  
request-134947-ba899a93@whatdotheyknow.com

05 November 2012

Our reference: FOI 24700

Dear Madam,

Thank you for your e-mail of 23<sup>rd</sup> October 2012, in which you ask for information about the processing times of the Indefinite Leave to Remain (ILR) Set (O) applications submitted via the postal route in week commencing 20th August 2012.

Your request has been handled as a request for information under the Freedom of Information Act 2000.

I have listed the specific questions you have asked with the response beneath.

- 1. How many applications were received in the week commencing the 20th August 2012?**
- 2. Whether all such applications have been processed successfully?**
- 3. If an application is made in August 2012, based on your current processing time when can the candidate expect to hear from UKBA with a decision?**

With regards to questions 1, 2 and 3 I can confirm that the Home Office holds the information that you requested. However, after careful consideration we have decided that the information is exempt from disclosure pursuant to section 36 (2), and by lieu of the provisions at section 36(4) of the Freedom of Information Act.

This allows us to withhold information if it constitutes a subset of data that is intended for future publication and the public interest falls in favour of applying the exemption(s).

With reference to the above questions, figures on indefinite leave to remain applications received in August 2012 will be available on 30 November 2012.

The use of this exemption requires consideration of whether it is:

- Reasonable in all the circumstances not to produce the information until on or after 30 November 2012, and
- Whether in all the circumstances of the case the public interest in maintaining the exemption stated above outweighs the public interest in disclosing the information.

This is a two stage test but the central issue is whether in all the circumstances it is reasonable and in accordance with the public interest to require you to wait until 30 November 2012.

We recognise there may be a public interest in producing this information for you now and that this may also weigh in favour of it being unreasonable to make you wait until 30 November 2012. We have considered the following:

- It is important that the public have access to immigration statistics. Home Office staff are required to handle requests made under the Freedom of Information Act 2000, not least to assure them that this legislation is being fully implemented.

But there are also public interest reasons for maintaining the exemption to the duty to communicate which weigh in favour of it being reasonable to require you to wait until 30 November 2012. We have considered the following:

- Publication would undermine Home Office established pre-publication procedures, which includes internal consultation about the final statistics being established on the Home Office website, and also being able to use its staff resources effectively in a planned way so that reasonable publication timetables are not affected.

After balancing these conflicting arguments, we have concluded not only that it is reasonable to require you to wait until 30 November 2012, but also that the balance of the public interests identified favours maintaining the exemption. This is not least because we believe that in this case the overall public interest lies in favour of ensuring that the Home Office is able to plan its publication of information in a managed and coherent way, and this would not be possible if immediate disclosure were made.

Should you still require the information at or after 30<sup>th</sup> November 2012, you should make a new request under the Freedom of Information Act at that time.

#### **4. Whether UK born children need to apply for settlement VISA, if their parents are granted ILR after their birth?**

Under section 1(1) of the British Nationality Act 1981 (the 1981 Act), a person born in the United Kingdom on or after 1 January 1983 is a British citizen at birth if, at the time of the birth:

- either parent is a British citizen; or
- either parent is settled in the United Kingdom.

Children who are not British citizens because, at the time of their birth, neither of their parents was a British citizen or settled here do not have the right of abode and are subject to immigration control. However, they are not here unlawfully and are not required to apply for leave to remain.

The Immigration Rules do make provision for such children, or their parents on their behalf, to apply for their position to be regularised by the granting of leave to remain or, if they leave the UK and subsequently return, leave to enter.

In addition, a child born in the UK who is not a British citizen can apply for registration as a British citizen if:

- one of the parents becomes a British citizen or settled in the UK after the birth. This means that once the parent obtains ILR the child can apply for citizenship if all the requirements are met; or
- the child lives in the UK for the first 10 years of his or her life.

Further information is available on our website at: [UK Border Agency | Children born in the United Kingdom](#)

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 FOI 24700. 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: [info.access@homeoffice.gsi.gov.uk](mailto:info.access@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

Paul Dickie  
North West Correspondence Team