



Home Office

**Information Access Team
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8 February 2011

Dear Mr Haddad

Freedom of Information request (our ref.16818): Internal review

Thank you for your e-mail of 4 January 2011, in which you asked for an internal review of our response to your Freedom of Information (Fol) request regarding how many applications have been made via UKBA's super premium service.

I have now completed the review. I have examined all the relevant papers, including the information that was withheld from you, and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and assessed the reasons why information was withheld from you. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My conclusion is that the original response was correct but we should have provided you with a range of figures. I can now confirm the number is less than 10. 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

Gloria Akinyemi

Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Mr A Haddad (reference 16818)

Responding Unit: UK Border Agency

Chronology

Original Fol request:	16 November 2010
Acknowledgement:	17 November 2010
UK Border Agency response:	13 December 2010
Request for internal review:	4 January 2011

Subject of request

1. I would like to know how many applications have been made via the UKBA's "super premium service" (described on your website here:<http://www.ukba.homeoffice.gov.uk/contact/super-premium/>) since that service was launched on 6 April 2010. In particular, I would like to have:

- 1 The total number of applications made via that service since 6 April 2010.
- 2 A month-by-month breakdown of the number of applications.
- 3 A breakdown of the numbers by type of application made (i.e which Tier of the points based system or other visa application type.
- 4 The success rates for applications made via this service (i.e the number of visa granted and refused) over the period.
- 5 The success rates for applications made via the postal service for the same period.
- 6 The success rates for applications made via the premium service (i.e in person in application at a public enquiry office) for the same period.

The response by UK Border Agency

2. The response to Mr Haddad by the UK Border Agency (UKBA) explained information regarding question 1,2,3,4 and 6 was held but would not be disclosed UKBA stated that the information was exempted from disclosure under section 40 (2) of the of the Fol Act.
3. UKBA clarified section 40 (2) was applied to the request as disclosure of the requested material would breach the Data Protection Principles relating to the unwarranted release to a third party of personal information about another person.

4. In response to question 5, UKBA disclosed the information Mr Haddad had requested.

Mr Haddad's request for an internal review

5. On the 4 January 2011, Mr Haddad requested an internal review of the information he had received from UKBA. Mr Haddad stated that the response by UKBA did not address the questions in his request. Mr Haddad explained that he did not understand how his request for information could lead to UKBA revealing personal information and he wanted a review of UKBA's decision not to disclose this information.

Procedural issues

6. Mr Haddad made his initial request on the 16 November 2010.
7. Receipt of the an acknowledgement of the request was sent on 17 December 2010 and a response was sent to Mr Haddad within the 20 working day limit Therefore there is no procedural breach of section 10(1) of the Fol Act.

Consideration of the response

Section 40 (Personal information)

8. The UKBA response of 13 December 2010 explained that section 40 (2) of the Fol Act was engaged on the grounds that the disclosure of the requested material would entail the unwarranted release, to a third party of personal information about another individual
9. UKBA explained that it had obligations under the Data Protection Act to protect the information that had been released by Mr Haddad. UKBA clarified that any release of information for the purpose of the Freedom of Information Act is deemed as release of information into the public domain as a whole.
10. Under the prohibitions of the Data Protection Act, 1998, UKBA stated that it was obliged to ensure that such information was processed in accordance with the law. Consequently the information requested by Mr Haddad was seen to be exempt from disclosure under the exemption at section 40 (2) by virtue of the conditions of section 40 (3) (1) (a) that requires the disclosure of any personal data to be in accordance with provisions of the Data Protection Principles of the Data Protection Act.
11. Additionally, UKBA should have explained Mr Haddad that by providing the numbers requested on questions 1,2,3,4, and 6 would also breach the Data Protection Act. The reason for this is that because the figures involved are so low, release could result in the identification of those involved.
12. Specifically, if the information requested was disclosed this could set a precedent for the public to ask for comparative information. Consequently, this would reveal a pattern of results which individuals could use to build a picture of those who have made applications to UKBA's super premium service. While UKBA were not able to

provide the exact numbers for Mr Haddad request for information, UKBA should have provided an indication of the numbers who have applied for this service, which is less than 10.

- 13 On the strength of the argument outlined by UKBA and for the reasons outlined above, I am satisfied that the exemption at section 40 (2) of the Act was correctly engaged by UKBA.
- 14 As the exemption at section 40 (2) of the Act is an absolute exemption no public interests apply.
- 15 UKBA did not clarify which of the Data Protection Principles would also be breached if the requested information was disclosed. It should be noted that the release of the information requested would constitute a breach of section 17 (1) (c) of the Act which refers to fair and lawfully processing as defined within section 1 schedule 1 of the Data Protection Act.

Advice and assistance

- 16 UKBA provided some advice and information in their response to Mr Haddad. In this respect UKBA partly complied with their duty to provide assistance and advice under section 16 of the Fol Act.

Conclusion

- 17 UKBA's response of 13 December 2010 was provided within the 20 working day limit, meeting the requirements of section 10(1) of the Fol Act.
- 18 UKBA were correct to apply the exemption at section 40 (2), However they should have provided Mr Haddad with an indication of the numbers involved.
- 18 UKBA should have clarified to Mr Haddad the reasons why part of the information requested was disclosed and a majority of the information was exempted. Paragraph 11 and 12 of this internal review provide more reasoning on this.
- 19 There was no procedural breach of section 17(7)(a) and 17(7)(b) as Mr Haddad was informed in writing of his right to an independent internal review and his right of complaint to the Information Commissioner.

Gloria Akinyemi
Information Access Team
Home Office
8 February 2011