

Guy Freeman

By e-mail: request-28794-6bf72549@whatdotheyknow.com

12 July 2010

Our Ref: FOI 14815 GV100/150969/LW

Dear Mr Freeman,

REQUEST FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT 2000.

Thank you for your e-mail of 27 April where you requested a copy of the request the Deputy Director of the International Group submitted to Meg Hillier and a copy of Meg Hillier's approval of the suspension on Tier 4 applications in North India, Nepal and Bangladesh. This falls to be dealt with under the Freedom of Information Act 2000.

Firstly, I would like to apologise for an error which occurred in my response to you of 27 April. The request to suspend Tier 4 applications was submitted to Lin Homer and not Meg Hillier as stated in the response.

I can confirm that the International Group of the UK Border Agency holds information which you are interested. However, I have decided not to communicate this information to you pursuant to the exemption under section 35 (1)(a). This allows us to exempt information if it relates to the formulation or development of Government policy. The information being exempted here clearly falls into this category because the changes to the policy relating to Tier 4 were made as a direct result of the evidence gathered during the course of the review of the effectiveness of Tier 4.

A range of evidence was gathered during the course of the Tier 4 review, and was used to determine the areas of Tier 4 most susceptible to abuse and to indicate that the route was being used by economic migrants rather than genuine students. This evidence includes information and intelligence provided by UK Border Agency staff based in the UK and overseas, internal management information, reports made by education providers to the UK Border Agency of non-enrolment and drop-outs, and other information received from the education sector.

The use of this exemption requires us to consider 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.

We have considered the public interest there may be in the circumstances of this case in disclosing the information to you. There may be a public interest in releasing evidence gathered during the course of the review of Tier 4, and which were the basis for policy changes to the student route. Indeed, greater transparency makes Government more accountable to the electorate and increases trust, and as knowledge of the way Government works increases, the public contribution to the policy making process could become more effective and broadly-based. There is also a public interest in being able to assess the quality of advice being given to ministers and subsequent decision making.

However, we have also considered the public interest there may be in maintaining the exemption to the duty to communicate. It is clear that good Government depends on good decision making and this needs to be based on the best advice available and a full consideration of all the options. Advice given to Ministers should be broad-based and there may be a deterrent effect on external experts or stakeholders who might be reluctant, in future, to provide advice because it might be disclosed. In addition, the impartiality of the civil service might be undermined if advice to Ministers was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making.

We have considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We have concluded that the balance of the public interests identified lies in favour of maintaining the exemption as there is a greater overall public interest in ensuring that both Ministers and Home Office officials have the necessary space to develop and assess policy in this area to ensure that policies are as robust and effective as possible.

If you are dissatisfied with this response you may request an independent review of our handling of your request. Internal review requests should be submitted within two months of the UK Border Agency sending a substantive reply to your original request and should be addressed to:

Information Access Policy Team
Freedom of Information Team
11th Floor - Short Corridor
Lunar House,
40 Wellesley Road
Croydon
CR9 2BY

During the independent review, the department's handling of your information request will be reassessed by a member of staff that was not involved in providing you with the response.

Yours sincerely

Lisa Walker
Visa Services