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Mr Wayne Pearsall
Via e-mail to : [request-148295-
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27th March 2013

Dear Mr Pearsall

Reference : FOI Request 26218

Thank you for your email to the Home Office, dated 07 February 2013. It was passed to me to arrange an Internal Review, in accordance with Secretary of State's code of practice issued under Section 45 of the Freedom of Information Act (FOIA).

Background

On 02 February 2013 you submitted a Freedom of Information (FOI) request asking for the following information:

[Q1] *How would a person subject to a reporting event receive a payment for the refund of the travel costs incurred when attending a reporting event as a condition of "bail" whilst on an IS96 document (Temporary Admission).*

[Q2] *If there are any forms (X) which need completing to apply for a refund [2a] / to claim travel expenses [2b] ETC please provide a copy of such forms along with your response.*

[Q3] *Please also provide a copy of all guidance issued to UKBA / other relevant persons in relation to funding such claims for travel expenses.*

[Q4] *If guidance is available for completing (X) then please also provide a copy of this guidance.*

For ease of reference I have numbered each of the questions as above.

An acknowledgement was sent on 04 February, the next working day.

On 07 February 2013, the Home Office replied to your request applying the exemption under Section 21 (Information Accessible via Other means) providing you with the following link (see below) to the UKBA website, and stating that the information you have requested can be found in Chapter 22 of the Enforcement Instructions and Guidance (EIG) document set .

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectiond/>

On 07 February 2013, you requested that the Home Office conduct an Internal Review into the handling of your request (see below):-

Dear Freedom Of Information Team (IND),

Further to my foi request,

http://www.whatdotheyknow.com/request/travel_expenses_for_is96_reporti

I asked for a copy of all forms, and guidance issued to staff. Please supply such. Sec 21 doesnt apply since these forms are not easily accessible. Neither is further guidance which is given to ukba staff.

Internal Review

Although not an obligation under the FOIA the Home Office did acknowledge your request for information and a response was provided within 20 workings days in accordance with Section 10(1) of the FIOA. I will therefore limit this Internal Review to whether the application of Section 21 was correct.

Investigation

For Section 21(1) of the FOIA to apply, the public authority should hold the requested information as defined by Section 3(2) (a) & (b) of the FOIA and that information be reasonably accessible as defined by Section 21(1). There is also an obligation on the public authority to inform the applicant of the information held by that authority by virtue of Section 1(1) (a), although this can be assumed by the application of Section 21.

Question 1, which asks for how a person attending a reporting event receives a "payment for the refund of the travel costs incurred", although clarification was not sought, my interpretation of the question is that it is a request for guidance on obtaining a refund for travel cost already paid (incurred) by the subject.

The response referred to Chapter 22 of the *Enforcement Instructions and Guidance* (EIG) documents and specifically, although not stated in the response, sections 22a.3.2 and 22a.3.7 (extracts provided below).

'22a.3.2 Eligibility

Travel expenses will only be payable from the date an application is approved. No consideration will be given to any retrospective payments for reporting.

Applications for travel expenses must be made in person at a reporting centre. Where an application is approved, subjects will receive a travel ticket for their journey home, if appropriate and for their next reporting event. A Case Owner may request a ticket to be posted to the applicant's home address for the initial routine reporting event, for example where the Region does not conduct First Reporting Events for new asylum applicants, or for individuals resuming reporting in accordance with conditions imposed along with Section 4 support.

22a.3.7 Payment by Provision of Ticket

All costs for travel expenses provided to subjects will only be in the form of travel tickets made valid for the subject's next reporting event. Under no circumstances will assistance for the cost of travel be made in cash. Tickets will be solely for use on public transport covered by a local Passenger Transport Executive.'

As this information is available on the Home Office/UKBA website section 21(1) was applied correctly.

However, Section 16 of the FOIA places an obligation on public authorities to provide advice and assistance to those who propose or have made requests for information where it is reasonable to do so. As the information was contained in a particular section of the EIG, i.e., 22.a.3.2, a direct reference to this section would have provided a clear response to the applicant.

Question 2 asked for any forms which are needed to complete for a refund **[2a]** or to claim travel expenses **[2b]**, under the conditions given by question 1. There are two parts of this question and these are dealt with separately below.

Refund [2a] – as indicated above in question 1, the EIG guidance states that there are no considerations for any retrospective payments as detailed in section 22a.3.2, so no forms for a refund are held by the Home Office/UKBA. As the response did not inform the applicant this information was not held, the Home Office/UKBA failed to meet its obligations outlined in Section 1(1)(a) of the FOIA.

Travel Expenses Claim [2b] – in Section 22.a.4.1 of the EIG document set it states that the '*Travel Expenses (TE) Officer will complete the Travel Expenses Request Form*'. As the form was not part of the EIG provided in the link, nor I understand available from another part of the UKBA website, it is not readily accessible to a member of the public.

Please see appendix A for a copy of the form.

Question 3 – The request is for all guidance issued to Home UKBA staff regarding the *funding* of the travel expenses. This could be interpreted differently, and without clarification it would be difficult to be sure what the applicant intended, for example, is this guidance on the budget that provides the travel expenses, or how these travel expenses are paid. Considering the context of the other questions asked, I have interpreted this question as the latter.

Again, assuming that the Section 21 exemption applied to this question as well, we need to establish if the EIG document set is issued to UKBA and other relevant staff.

The main web page showing all the chapters of the guidance states that,

'This manual contains guidance and information for officers dealing with enforcement immigration matters within the United Kingdom.'

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

Therefore, it seems that section 21(1) is engaged for this question. However, the Home Office/UKBA's obligations under Section 16 of the FOIA, should have stated that the manual is for officers dealing with immigration in the response.

Question 4 – This is a request for any guidance used in completing the forms referred to in question 2. As established for question 2a, there are no forms for completing retrospective travel claims or refunds; therefore, this question should refer only to guidance in completing the travel expenses forms (2b).

As determined in question 2b, it is the Travel Expenses (TE) Office who completes the forms for the subject to then sign. Therefore, any guidance for completing the form should be directed at the TE Officer, a UKBA member of staff.

The majority of the form is fairly self explanatory, e.g., Name, Home Address, etc, and would require no specific guidance, however, the TE Office may need further guidance for the following questions:-

- Is the subject receiving Asylum support? (including Section 4)
- Does the subject live outside the 3 mile radius of the RC?
- Is (the) subject entitled?

Is the subject receiving Asylum support? (including Section 4) – Section 22a2 states that:-

'RepARC is an IT reporting system linking an asylum applicant's reporting compliance to the payment of their asylum support through their Application Registration Card (ARC).'

'The RepARC process requires that the asylum applicant produce their ARC when they report to a Reporting Centre (RC). A fingerprint check is made to authenticate the asylum applicant's identity using data stored in the ARC'

Does the subject live outside the 3 mile radius of the RC? – Section 22a5.2 states that:-

'The TE Officer will determine receipt of Asylum/S4 Support and the Excel Postcode Spreadsheet to determine if their residing address falls outside of the 3 mile radius of the Reporting Centre.'

Is [the] subject entitled? – Finally, once all criteria above has been determined, then the 'subject is entitled to Travel Expense as detailed in 22a.3.3 :-

'Asylum seekers living outside of the 3 mile radius of their reporting centre who receive Asylum Support under Section 95 or Section 4 are eligible to receive help with travel expenses for reporting.'

Conclusion

For questions 1, 3, and 4, I have found that Section 21 does apply in this case, in that the information is readily available on the UKBA website and a link was provided. However, it would have been useful to the applicant, and as part of the obligations under s.16, to provide advice and assistance by detailing exactly which part of the EIG document set applied to each question.

For question 2b, the Home Office/UKBA failed to provide the information requested, and this form has now been released as part of the internal review. Also, the Home Office/UKBA did not inform the applicant that the information requested in question 2a was not held.

If you are still dissatisfied following our internal review, you have the right, under section 50 of the Act, to complain directly to the Information Commissioner. The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire, SK9 5AF

Yours sincerely

Andy Woodgate
Information Access Team

Switchboard 020 7035 4848
E-mail FOIRequests@homeoffice.gsi.gov.uk

Appendix A

TRAVEL EXPENSES REQUEST FORM

Name:	
Home Office or Port Reference Number	
Home Address:	
How does subject normally travel to the Reporting Centre? e.g. rail, bus, car etc.	
Type of ticket purchased e.g. return, all day etc.	
Is subject receiving Asylum Support? (including Section 4)	Yes / No
Does the subject live outside the 3 mile radius of the RC?	Yes / No
Is subject entitled?	Yes / No
<p>Signature of Subject:</p> <p>Signature of Staff:</p> <p>Date:</p>	