

Robert Simpson
By e-mail:
request-70971-dlc6825c@whatdotheyknow.com

Our Reference: 18587

20 May 2011

Dear Robert Simpson

Thank you for your e-mail of 9 May 2011, in which you ask for information about UK-issued residence cards and permanent residence cards. Your request has been handled as a request for information under the Freedom of Information Act 2000.

I am able to disclose some of the information that you requested, as set out in the enclosed Annex.

We believe that the information you have requested about internal UK Border Agency (UKBA) written material which describe all formats of residence cards is already reasonably accessible to you on the UKBA website:

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

Section 21 of the Freedom of Information Act exempts the Home Office from having to provide you with this information, because it is already in the public domain. If you have any difficulties in accessing this information at the source which I have indicated in the enclosed annex please contact me again.

I can also confirm that the Home Office holds the information that you requested about documents which describe how information about the format of UK-issued residence cards has been communicated to the European Commission and other EU Member States. However, after careful consideration we have decided that some of this information is exempt from disclosure under section 31 of the Freedom of Information Act. This allows us to exempt information if its disclosure would, or would be likely to, prejudice the operation of the immigration controls.

Arguments for and against disclosure in terms of the public interest, with the reasons for our conclusion, are set out in the enclosed Annex.

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 18587. 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: FOIRequests@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

Rebecca Nugent

Annex - Freedom of Information request from Robert Simpson (reference 18587)

Information requested

Your request was broken down into the following three sections:

[1] Documents which describe all formats of residence cards. This should include pictures or images of the different formats, descriptions of any validity limitations of each format, and guidelines for which particular format is selected by UKBA when an individual card is issued.

[2] E-mails or documents which describe how the information in question one, in whole or in part, has been communicated to the European Commission, the other 26 EU Member States and/or their embassies in the UK. If it has not been communicated you requested documents which describe why this has not been communicated.

[3] E-mails or documents which refer to what has been done to address complaints from residence card holders that their valid residence card was not accepted by another member state, either in the member state itself or by the embassy. You clarified that you are not interested in the original complaint but in what UKBA has done to address them.

For the purposes of this request you provided the following definitions of “documents” and “residence cards”:

“documents” - written internal material including, but not limited to, procedures manuals, operational bulletins, memos or other material referenced by UK Border Agency employees. The documents may be on paper or in electronic form.

“residence cards” – all residence cards and permanent residence cards for non-EU family members of EU citizens, issued by UKBA or the Home Office since 2006. This includes, but is not limited to, those in the format of passport vignettes, pieces of paper and ‘plastic’ cards.

Response

The following response has been broken down to address each of the above questions.

[1] Descriptions of all formats of residence cards.

The UK Border Agency publishes guidance on the format of residence cards and permanent residence cards. This information is contained within the European Casework Instructions (ECI). The ECIs can be accessed on the external Home Office website at the following link:

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

To assist you in identifying the relevant sections:

Chapter 2: Rights of non-EEA national family members of European Economic Area (EEA) nationals: 1.1; 3; 3.2; 3.3; 6.3.1.

Chapter 5: Residence card applications: 5.1.11; 5.4.13; 5.4.15; 5.4.17.

Chapter 6: Permanent residence: 4; 6.4.

There is also some information about the format of residence cards at the following link:

<http://www.ukba.homeoffice.gov.uk/eucitizens/documents-family/>

Section 21 of the Freedom of Information Act exempts the Home Office from having to provide you with this information, because it is already in the public domain. If you have any difficulties in accessing this information at the source which I have indicated above please contact me again.

[2] Communicating information about UK-issued residence cards to the European Commission and the other 26 EU Member States.

The United Kingdom handed out specimens of the UK-issued residence documentation (residence cards and permanent residence cards) to all London embassies of EU Member States on 21 December 2006. Further specimens were distributed to all Member States and the European Commission via the Frontiers False Documents Working Party meeting in Brussels on 22 January 2007.

Information concerning the format of residence cards is also available to Member States via the EU False and Authentic Documents Online database (FADO), a public version of which can be viewed at:

<http://www.consilium.europa.eu/prado/EN/homeIndex.html>

The document shared with the EU Member States' London Embassies in 2006 has since been uploaded onto this site and can be found at:

<http://www.consilium.europa.eu/prado/EN/2616/docHome.html>

Examples of UK residence documentation are available at this link.

In 2006 UKBA also provided EU Member States' London Embassies with an accompanying one page handout which detailed the security features contained within residence cards and permanent residence cards. This information is exempt from disclosure under section 31 of the Freedom of Information Act. This allows us to exempt information if its disclosure would, or would be likely to, prejudice the operation of the immigration controls.

Public interest test in relation to information exempted from disclosure section 31

Some of the exemptions in the FoI Act, referred to as 'qualified exemptions', are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public.

The FoI Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

There is a public interest in disclosing the information to you as it will increase the transparency of the work of the UK Border Agency. There is also a public interest in ensuring public confidence in the United Kingdom's immigration controls.

However if we were to disclose this information it could substantially prejudice the operation of our immigration controls. This is because disclosure may enable potential immigration offenders to obtain detailed information on the security features of these documents.

I have considered whether in all circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have concluded that the balance of the public interest identified lies in favour of maintaining the exemption because it is in the overall public interest that UKBA is able to maintain the integrity of the United Kingdom's immigration control.

We conclude that the balance of the public interest lies in withholding the information.

[3] Complaints from residence card holders.

Complaints from UK-issued residence card holders whose document has not been accepted by another Member State are handled by the EU SOLVIT network. This network is an initiative of the European Commission with the participation of all EU Member States to resolve problems experienced by European citizens living, working, studying or doing business within the EU. These problems relate to the incorrect application of EU rules by national, regional or local authorities. The UK SOLVIT centre is situated within the Department for Business Innovation and Skills (BIS). Therefore, UKBA does not hold the information you requested. BIS might be able to provide you with this information.

Date

20 May 2011