



# Home Office

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Mr Robert Simpson  
[request-70971-dlc6825c@whatdotheyknow.com](mailto:request-70971-dlc6825c@whatdotheyknow.com)

29 June 2011

Dear Mr Simpson

**Freedom of Information request (our ref. 18587): internal review**

Thank you for your e-mail of 30 May 2011, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about residence cards.

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 mostly correct.

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

**L. Fisher**  
**Information Access Team**

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Mr Robert Simpson (reference 18587)

**Responding Unit: UK Border Agency (UKBA or ‘the Agency’)**

### **Chronology**

Original Fol request:	9 May 2011
Acknowledgement:	10 May 2011
Original Fol deadline:	7 June 2011
UKBA response:	19 May 2011
Request for internal review:	30 May 2011

### **Subject of request**

1. Mr Simpson’s Fol request of 9 May 2011 asked for information relating to residence cards.
2. Mr Simpson’s original Fol request is set out in full at the Annex.

### **The response by UKBA**

3. UKBA withheld the information under section 31 of the Act, which relates to law enforcement. UKBA did not specify the relevant sub-section, although its response does refer to the operation of immigration controls.
4. Some of the information was withheld under section 21 (information accessible by other means). UKBA provides links in its response to the publicly available European Casework Instructions (ECIs), which did provide some information on the format of residence cards.
5. The UKBA response also provided information on the residence card complaints process, which is handled separately by the Department for Business, Innovation and Skills (BIS).

### **Mr Simpson’s request for an internal review**

6. Mr Simpson made several points in his internal review request of 30 May 2011 which will be addressed in this report.
7. Firstly, Mr Simpson says that he was not provided with a picture or image of a residence card as requested.

8. Secondly, he asks whether the information requested at part two of his request exists (relating to communications with Europe), as it was not confirmed whether UKBA held the information in its original response.
9. Thirdly, he informs us that the link provided by UKBA in its original response to the PRADO website does not include any pictures or documents of residence cards used in the UK.
10. Finally, he states that the UKBA response was not responsive to his original request which asks about UKBA's involvement relating to complaints about residence cards. However, he recognised that UKBA was helpful in that it indicated that the Department for Business, Innovation and Skills (BIS) is responsible for this area of work.

### **Procedural issues**

11. UKBA complied with section 1(1) as it stated whether it held the information requested by Mr Simpson.
12. UKBA responded within twenty working days, complying with section 10(1) of the Act.
13. UKBA complied with section 17(1) by stating its reasons for refusing to release some of the information and the exemptions that applied.
14. Mr Simpson was informed of his right to request an independent internal review of the handling of his request, as required by section 17(7) of the Act. UKBA's response also informed him of his right to complain to the Information Commissioner, as specified in section 17(7) of the Act.

### **Consideration of the response**

15. In its response UKBA confirms whether it holds some of the information requested. However, the Agency was not always consistent in complying with section 1(1) of the Act. For example, at question one Mr Simpson asked for documents that describe all formats of residence cards, but he goes on to specify that this information would encompass images or pictures of the formats, as well as guidelines on format selection and descriptions of validity limitations. UKBA confirmed that it held information on the formats of residence cards and guidelines, but not for images of the cards and validity limitations. This ambiguity on what information is held was highlighted by Mr Simpson in his internal review request.
16. I will now address the points raised by Mr Simpson in his internal review request. His request comprised three parts the first of which is set out below.

## Question 1

***“DOCUMENTS which describe all formats of RESIDENCECARDS. 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.”***

17. UKBA provided several links to its website in relation the European Casework Instructions (ECIs), which provide some information on the **format of residence cards**. UKBA indicated on which pages within the ECIs the relevant information can be found. The ECIs were not provided in full as this information is exempt under section 21(1) of the Act (it is reasonably accessible by other means). This is an absolute exemption that does not require consideration of the public interest test.
18. Mr Simpson acknowledges that the UKBA response was helpful in that it clarified that “residence cards are vignettes and sometimes attached to an immigration status document if no passport is available.” However, he points out that the requested picture or image of the residence cards was not provided.
19. The original response would have benefited from greater clarity on whether UKBA holds information on pictures or images of residence cards. As part of this internal review, UKBA has confirmed that it does hold some images of residence cards.
20. All images relating to residence documents that can be disclosed to the public are available on the Public Register of Authentic Identity and Travel Documents Online ([PRADO](#)) website. UKBA does hold further images of residence cards but such images are exempt under section 31(1)(e)(operation of immigration controls).
21. UKBA did not cite the relevant sub-section – section 31(1)(e) - in the original response. The public interest test argument cited for part two of the response also applies to the same information at part one as it relates to the same information regarding images of residence cards.
22. The Agency’s public interest test argument for section 31(1)(e) concluded that the information was exempt from disclosure. I will now reassess whether it was appropriate for UKBA to cite this exemption to withhold the information.

## Section 31(1)(e) (operation of immigration controls) – public interest test

23. As the original response stated, there is a public interest in disclosing the information as it would increase transparency of the work of UKBA. This would be beneficial as it would ensure public confidence in the United Kingdom’s immigration controls.

24. Disclosing the information would reassure the public on the steps that the Government is taking to secure our borders and protect its citizens from identity fraud. Release of the information would also illustrate the work the Government is undertaking on issuing and processing residence cards effectively and ensuring that the necessary stakeholders are aware of the current processes and images of residence cards.
25. I will now set the above considerations against the arguments for not disclosing the information. If the information were to be released it would jeopardise the Government's ability to protect its borders and prevent identity fraud. If we released images of the residence cards, it would reveal security safeguards concerning the documents which would make the process vulnerable to those who wish to exploit the residence card process for criminal purposes. This is evidently not in the public interest. It is also clearly not in the public interest to release information if it could weaken the Government's ability to develop systems that improve the security and protection of our borders and prevent identity fraud.
26. I conclude that the original UKBA response was correct. The balance of the public interest lies in withholding the information relating to some of the images of residence cards which contain security information.
27. Under part one of his request, Mr Simpson also requests **guidelines on which residence card format is selected** when an individual card is issued. UKBA has confirmed that it does not hold such information as there is only one format of residence card. As part of the review, UKBA has explained that the title of the document is amended depending on whether the individual is applying for residence or permanent residence as the family member of an EEA national, exercising Treaty rights in the United Kingdom. UKBA further explain that which title to use will be clear from the individual's application.
28. The final element of question one was regarding '**validity limitations of the residence cards**', which was interpreted as referring to the five year length of validity of the residence cards. UKBA has confirmed that such information was included in the links provided in the original response.
29. I will now turn to the second part of Mr Simpson's request regarding documents which relate to how such information has been communicated to the European Commission, EU member states and/or their embassies in the UK. This part of the request is set out in full below.

## Question two

***“Emails or DOCUMENTS which describe how the information in question (1), 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, then please provide DOCUMENTS which describe why this has not been communicated.”***

30. UKBA confirms in the main body of its original response that it holds this information, but not at the Annex. It is implied that information is held given that exemptions are cited. I can confirm that UKBA does hold the information requested.
31. UKBA deemed that this information is exempt under section 31(1)(e) (operation of immigration controls). Therefore, the second element of Mr Simpson's request for documents describing why this information has not been communicated is not applicable.
32. There are two documents held by UKBA regarding residence card communications with Europe. In addition to this it also holds specimens of UK-issued residence cards. These, arguably, would not fall within the scope of the Freedom of Information Act, given that they are specimen documents as opposed to recorded information. Even if they were considered to be information that could be disclosed under the Act, they would be exempt for the same reasons set out above under the public interest test arguments for section 31(1)(e)(operation of immigration controls). UKBA explained in its original response how the specimen cards were disseminated.
33. I will now assess the two documents that fall within scope of this part of the request.
34. The first piece of information relates to a document shared with the EU member states' London embassies in 2006, which has been published on the PRADO website. A link to this document was enclosed in UKBA's original response, but it does not directly link to the document in question, only the PRADO home page. For ease of reference, I now enclose a direct link:  
  
<http://prado.consilium.europa.eu/EN/2616/docHome.html>
35. UKBA should have cited section 21(1) of the Act to withhold this information as it is reasonably accessible by other means.
36. The second document is a note that accompanied the specimen residence cards when they were issued. This is a one-page handout which details the security features contained within the residence cards. I agree with UKBA's original response that this information is

exempt from disclosure under section 31(1)(e) (operation of immigration controls).

37. Mr Simpson queries the accuracy of the [PRADO](#) link provided by UKBA in its original response. He states the link describes the image as a “residence document issued to EU citizens”, and not for a residence cards (which is vignette issued to the non-EU family members. He says that there do not appear to be any residence cards images in the UK documents on PRADO.
38. As part of this review, I asked UKBA to investigate why there is such a discrepancy on the PRADO website. UKBA has looked into this and asked us to apologise to Mr Simpson, as although the link correctly describes the document in question, the description on PRADO does not make it clear that the same document is issued both to EU nationals and their non-EU family members. UKBA will be ensuring that this oversight will be corrected on the PRADO website as soon as possible. The document reference number on the PRADO website is: **GBR-HO-02001**.
39. Finally, I will assess the third part of Mr Simpson’s request which relates to complaints from residence card holders. This part of the request is set out below.

### Question three

***“Emails or DOCUMENTS which refer to what has been done to address complaints from Residence Card holders that their valid RESIDENCECARD was not accepted by another member state (either in the member state itself or by the embassy) because it was not in a recognized or accepted format. (This is not a request for the original complaints – I am only interested in what, if anything, UKBA has done to address them).”***

40. Mr Simpson acknowledges that the UKBA response was helpful in explaining that the UK SOLVIT centre - situated in the Department for Business, Innovation and Skills - is responsible for handling complaints from residence card holders. By way of explanation, SOLVIT is an on-line problem solving network in which EU Member States work together to solve issues.
41. Although Mr Simpson recognises that that this was helpful, he considers that the UKBA response did not address his request about *UKBA’s work* in addressing complaints from residence card holders.
42. In its original response UKBA confirms that it does not hold the information. It explained that this is because the EU SOLVIT 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. UKBA also said that it did not hold the requested information as the UK

SOLVIT centre is situated at BIS. It advised Mr Simpson to contact BIS, although they did not provide adequate advice and assistance as required by section 16(1) of the Act in providing the contact details of BIS. If Mr Simpson has not already done so, he can write to BIS at the following address.

Information Rights Unit  
Department for Business, Innovation and Skills  
1 Victoria Street,  
London SW1H 0ET  
[foi.requests@bis.gsi.gov.uk](mailto:foi.requests@bis.gsi.gov.uk)

43. As part of this internal review I contacted UKBA to find out its involvement in complaints from residence card holders that are handled by the UK SOLVIT centre. UKBA responded saying that they do work with SOLVIT on questions about UK issued residence cards but **not** on the specific type of query set out in Mr Simpson's request. BIS has also confirmed that it is not aware of any instances where UKBA has referred a citizen with such a complaint to the UK SOLVIT centre.
44. UKBA has confirmed for this review that it is unlikely that BIS would need to engage with UKBA in the scenario that Mr Simpson has outlined. If an individual experiences problems with other Member States recognising a UK-issued residence cards and communicates this to the EU/BIS the latter will raise the issue with the Member State that is refusing to accept the card. The fault is not with the UK, but the other Member State.
45. As part of the review, UKBA has also considered whether any other part of the Agency would handle such enquiries. UKBA contacted its International Group as they would handle any queries raised at UK Embassies and High Commission's overseas, but they have no record of such complaints.
46. I am satisfied that UKBA does not hold the information requested at part 3 of Mr Simpson's request.

## Conclusions

47. UKBA responded within twenty working days, complying with section 10(1) of the Act.
48. UKBA mostly complied with section 1(1) of the Act as it confirmed whether it held the requested information, although this could have been clearer for some of the specific information requested.
49. UKBA correctly applied section 21(1)(information accessible by other means) and section 31(1)(e)(operation of immigration controls) to withhold some of the information at questions one and two.



50. UKBA will be ensuring the details on the PRADO website are updated as soon as possible with the correct information on residence cards.

51. I am satisfied that UKBA do not hold the information in relation to question three.

**Information Access Team**  
**Home Office**  
**June 2011**

## **Annex – original request, UKBA response and Mr Simpson’s comments on the response**

***“DOCUMENTS which describe all formats of RESIDENCECARDS. 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.”***

### UKBA response

*“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.”*

### Mr Simpson’s comments on the response

*“In part 1 of my request, I asked in part for pictures or images of the RESIDENCECARDS. Your reply highlighted written parts of the ECIS which clarify that the RESIDENCECARDS are vignettes and sometimes attached to “an immigration status document (ACD.2150) if no passport is available”. This was partially helpful.*

*My request was also for a picture or image, from the specified DOCUMENTS, of the vignette alone and the vignette attached to an immigration status document (ACD.2150). This was not provided.”*

***“Emails or DOCUMENTS which describe how the information in question (1), 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, then please provide DOCUMENTS which describe why this has not been communicated.”***

UKBA response

*“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.”*

Mr Simpson’s comments on the response

*“In part 2 of my request, I ask for “2. Emails or DOCUMENTS which describe how the information in question (1), 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.”*

*Your response did not produce any DOCUMENTS or emails, and was not responsive to my original request. Do any DOCUMENTS or emails exist?*

*The link provided to PRADO*

*(<http://www.consilium.europa.eu/prado/EN/2616/docHome.html>) is for a “Residence document issued to European Union citizens”, and not for a Residence Card (which is the vignette issued to the non-EU family members). There do not appear to be any Residence Cards in the UK documents on PRADO.”*

***“Emails or DOCUMENTS which refer to what has been done to address complaints from Residence Card holders that their valid RESIDENCECARD was not accepted by another member state (either in the member state itself or by the embassy) because it was not in a recognized or accepted format. (This is not a request for the original complaints – I am only interested in what, if anything, UKBA has done to address them).”***

UKBA response

*“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.”*

Mr Simpson's comments on the response

*“Finally, in part 3 of my request, I requested DOCUMENTS that refer to what has been done to address specific complaints within UKBA.*

*Your response about Solvit was a helpful reference to another government entity, but was not responsive to my original request about UKBA. I would like to request that the original question be addressed.”*