

CHAPTER 25  
SECTION 5

INTRODUCTION TO SUBSTANTIVE EXEMPTIONS  
UNDER THE FREEDOM OF INFORMATION ACT 2000

EXAMPLE LETTER TO AN APPLICANT WHERE THE DUTY TO COMMUNICATE HAS  
BEEN EXEMPTED BUT THE DUTY TO CONFIRM HAS BEEN COMPLIED WITH

Our Ref: FOI/AFC/RULE

Your Ref:

Date 24 March 2005

Dear Mr X,

**REQUEST FOR INFORMATION**

Thank you for your letter of 31 February 2005 where you have requested information on the number of Immigration Officers who are on duty at an evening shift at Terminal 10 at Airport Y. This request for information falls to be dealt with under the Freedom of Information Act 2000.

I can confirm that this information is held by the Immigration Service.

Example of the duty to confirm being complied with in the response

I have decided, however, not to communicate this information to you pursuant to the exemption under section 31(1)(e) of the Freedom of Information Act 2000. This allows us to exempt information if its disclosure would, or would be likely to, prejudice the operation of the immigration controls

Example of the exemption being specified

If we were to disclose the information you have requested this could substantially prejudice the operation of our system of immigration control both specifically at Airport Y and more widely across a number of routes of entry into the UK. This is because it would alert those who seek to enter the country fraudulently or illegally at this airport to our staffing levels at a particular time, and allow them to either alter their journey times accordingly or seek to enter via another route of entry.

Stating why the exemption applies and meeting the prejudice test as required by section 31.

The use of this exemption also 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.

Public interest balancing test as a qualified exemption is being applied

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 disclosure to ensure that there is public confidence in the operation of our immigration controls by keeping the public informed of how we apply our system of immigration control. It may also be in the public interest to ensure that those subject to immigration controls are aware of those and how they operate as this may discourage illegal entry to the UK.

Consideration of the public interest in disclosure of the information requested

We have also considered the public interest there may be in maintaining the exemption to the duty to communicate. There is a strong public interest in ensuring that people are not able to evade or abuse our immigration controls in order to enter the United Kingdom illegally which non-disclosure would ensure here. It is also in the public interest to withhold this information as the efficiency and integrity of our immigration controls could be undermined here.

Consideration of the public interest against disclosing the information requested

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 because the public interest in ensuring the integrity of the system of immigration controls and that these are not abused significantly outweighs the reasons for disclosure.

Why the public interest balance test favours overall non-disclosure

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting your complaint to:

IND Complaints Unit  
11th Floor, West Wing  
Block 'C'  
Whitgift Centre  
Wellesley Road  
Croydon  
CR9 1AT

During the independent review the department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. Should you remain dissatisfied after this internal review, you will have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

*A. N. Other*

A. N. Other  
IND Central Freedom of Information Team  
Change and Reform Directorate