



**Ministry of
Border Control,
Labour & Culture**
Cayman Islands Government

Reference Number: FOI/111678
Alric Lindsay
alric.lindsay@gmail.com

12-DEC-2024

Good morning Applicant Lindsay,

I am in receipt of your following dissatisfaction, dated 27 November, 2024: -

“Dear FOI Manager,

“The FOI response refers to "personal data" and sensitivities, however, no names or identifying information was ever requested. In fact, the request related to the types and numbers of prohibited immigrants.

“I therefore apply for an internal review.”

I note that your initial FOI request, (dated 08 Oct, 2024), was made in the following terms:

“1. Total Number of Approvals of Prohibited Immigrants – Records reflecting annual number of prohibited immigrants approved for entry into the Cayman Islands by the Cabinet from 2017 to present.

“2. Types of Prohibited Immigrants - Records showing types of prohibited immigrants Cabinet approved for entry (e.g. those with criminal records, overstayers, previously deported etc.).

“3. Reasons for Approval - Cabinet’s reasons for approving the entry of prohibited immigrants in 1 above.

“4. Impact on Local Community - Records showing Cabinet’s assessment of the potential impact of these approvals on the local community and public safety.

“5. Policy Changes - Records showing any changes to the policies or criteria for approving prohibited immigrants since 2017.

“6. Total Number of Waivers (for the sections identified in your email of 8th October 2024) under the Immigration Transition Act – Records reflecting the annual number of waivers by Cabinet of requirements under the Immigration Act or Immigration Transition Act from 2017 to present.

“7. Types of Immigration Waivers (for the sections identified in your email of 8th October 2024) - Records showing types of requirements waived in 6 above (e.g. no need to obtain a work permit)

“8. Reasons for Waiver (for the sections identified in your email of 8th October 2024) Approval - Cabinet’s reasons for approving the entry of prohibited immigrants in 6 above.”

#1 and #6 were answered by the Cabinet Office’s Information Manager in FOI #111570 and #5 was granted in full by the Ministry’s Information Manager in response to this request. The remainder of your initial request specifically seeks records that would reveal Government’s deliberative processes, i.e. reasons for Cabinet’s decisions and any assessments undertaken as part of the decision-making process. The only records held by this Ministry that are responsive to your request are the Cabinet Papers that have been identified by the Information Manager.

For the avoidance of doubt, the Ministry of Border Control, Labour & Culture does not maintain statistics on the types of waivers and prohibited immigrants’ applications that Cabinet has approved for entry during the period 2017 to present and is, therefore, unable to respond to #2 and #8 in your FOI request, other than through the disclosure of the relevant Cabinet Papers.

In the course of this internal review, I reviewed how the Information Manager handled your request and I agree that the information you have requested, as contained within the Cabinet Papers, is exempt under sections 17(1)(c), 19(1)(a) and 23(1) of the FOI Act for the reasons set out in the Information Manager’s decision.

I am satisfied, in particular, that the “records showing types of prohibited immigrants Cabinet approved for entry” (#2) and “records showing types of requirements waived” (#7) would clearly be opinions, advice or recommendations prepared for the Cabinet. I am also satisfied that “Cabinet’s reasons for approving the entry of prohibited immigrants” (#3), “Cabinet’s assessment of the potential impact of these approvals on the local community and public safety” (#4) and “Cabinet’s reasons for [waivers]” (#8) would necessarily be records of the Cabinet’s consultations or deliberations. This information would therefore reveal Government’s deliberative processes and is exempt under section 19(1)(a) of the FOI Act. This exemption is class-based and absolute, in that it is not subject to the public interest test.

Certain information within each Cabinet Paper that would satisfy your questions is also exempt as legal advice provided on behalf of the Attorney General, another class-based, absolute exemption, and because disclosure would constitute an unreasonable disclosure of personal information. In this decision on internal review, I have not reconsidered or provided additional reasons the application of section 23(1) to the personal data in the records. This is because you have now explained that you do not consider your request to include names or identifying information.

I do note that the Information Manager did, following her review of the exempt records, seek to assist you in your enquiries by confirming that prohibited immigrants asked for entry for family reasons - events such as funerals and ailing relatives etc. She also noted

that waivers from the requirements specified in the sections of your 8 October 2024 email are typically granted for caregivers of Caymanians who are relatives of the Caymanian being cared for but not, themselves, Caymanian or able to otherwise lawfully reside in the Cayman Islands to provide that care.

This information was included in the Information Manager's email dated 26 November 2024. I understand that this general information may not have been as detailed as you expected, or presented statistics and other data in the form that you preferred. However, under the FOI Act, we are required to provide **records** which would substantively answer submissions, unless those records are exempt from disclosure. As outlined above, the actual records that are held by the Ministry are exempt from disclosure under the FOI Act. I am also of the view that the Information Manager located the appropriate records based on the way your request was submitted and further clarified, that no further records exist to respond to your request.

In sum, I am upholding the initial decision, with the cited FOI Act sections, in the FOI/111678 letter sent to you on 26 November, 2024.

If, upon this Internal Review, my decision is still not favourable to you, you have the right under section 42 of the FOI Act to appeal to the Ombudsman within 30 days of the date of notification of this decision taken at Internal Review.

You can find information on how to appeal to the Ombudsman at ombudsman.ky/foi. To contact the Ombudsman, please email info@ombudsman.ky or call +1 345 946 6283.

Regards,



Debbie-Ann Whittaker BSW, Msc HRM
Deputy Chief Officer



**Ministry of
Border Control,
Labour & Culture**

Cayman Islands Government

P.O. Box 111, 5th floor Government Administration Building
#133 Elgin Ave, George Town | Grand Cayman, Cayman Islands, KY1-9000
Direct Tel: (345) 244-3182