

Alric Lindsay
PO Box 10337 APO
KY1-1003
Cayman Islands

By email: alriclindsay@gmail.com

17 February 2025

Dear Mr. Lindsay,

Re: Ombudsman Appeal file Lindsay 202400761; FOI/111678

This is regarding your application to the Office of the Ombudsman to appeal the Ministry of Border Control, Labour & Culture's ('BCL&C') ('the Ministry') decision to exempt records under the Freedom of Information Act (2021 Revision) (FOI Act) pursuant to sections 17(1)(c), 19(1)(a) and 23(1).

On 7 October 2024, you submitted the following request to the Cabinet Office:

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 (eg 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.*

On the same day, the Cabinet Office acknowledged receipt and requested clarification concerning questions 6 – 8. You reverted, stating,

All sections where Cabinet exercised a power to waive, including conditional exemptions under section 53(1)(b) of the Immigration (Transition) Act (2022 Revision).

On 8 October 2024, the IM asked you to be specific, and you responded by stating that,

*For questions 6 to 8, the sections are as follows:
Section 44(2)(b) of the Immigration Act (2015 Revision)
section 53(1)(b) of the Immigration (Transition) Act, 2018
Conditional exemptions under section 53(1)(b) of the Immigration (Transition) Act (2022 Revision)*

On 10 October 2024, the IM provided you with a letter of acknowledgement advising that the request was split, as such, a portion of the request was transferred to the Ministry.

On 11 October 2024, the IM in the Ministry accepted the request transferred from Cabinet and informed you that they would respond to Items numbered 2 – 5 and 7 – 8.

On 26 November 2024, a decision was provided to you along with the below explanation,

Aside from my necessary exemptions and outside of the FOI Act, I can advise that some of the reasons for waivers were for non-Caymanians to remain employed as care-givers to Caymanians' family members.

Prohibited immigrants asked for entry for family reasons - events such as funerals and ailing relatives etc. and considered in accordance with Section 90 of the Customs & Border Control Act.

On 27 November 2024, you requested an internal review (IR), informing the IM that,

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.

On the same day, the IM acknowledged receipt.

On 13 December 2024, the Ministry's IR decision was provided to you.

As you were unsatisfied, an appeal request was submitted to the Ombudsman the same day.

On 2 January 2025, we accepted the appeal.

As part of our investigatory process, we visited the Ministry and viewed the responsive records as required by section 45(2A). Based on our review, on 5 February 2025, we informed you that,

- *The records contain detailed findings and recommendations intended for consideration by the Cabinet in the form of "opinions, advice or recommendations prepared for... proceedings of the Cabinet", as required for the exemption to apply. As such, section 19(1)(a), in our view, applies.*
- *Further, an examination of the Extract reveals that it is a record of a decision of the Cabinet, which was reached after discussions outlined in the Cabinet Paper. The Extract, in this case, is a separate document; it does not document any discussions and is not a responsive record being considered.*
- *Further, the exemption in s. 19 is absolute and is not subject to a public interest test, which means access cannot be granted in the public interest.*

For the above reasons, we suggested closing the matter. Accordingly, we have now closed this appeal.

Kind regards,



Charlene Roberts

Senior Appeals and Policy Analyst, Information Rights

Cc: Allyson Minus-Phillips, Information Manager, Ministry of BCL&C