

To: The Applicant
Alric Lindsay
Cayman Islands

By email: alric.lindsay@gmail.com

To: The Public Authority
Ministry of Border Control, Labour & Culture
Allyson Minus-Phillips, Information Manager

By email: Allyson.Minus-Phillips@gov.ky

2 January 2025

Re: Receipt of Appeal for Ombudsman Appeal file Lindsay 202400761; FOI/111678

This is in response to an application to the Office of the Ombudsman to appeal the Ministry of Border Control, Labour & Culture's ('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, the applicant 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, stating,

I am not certain what waivers you are referring to, can you specify the section of the Act they are being granted under as that may assist me with my search.

The applicant 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 wrote,

Please note that I will need you to be more specific about what sections of the Immigration Act (2015 Revision) and the Immigration (Transition) Act (2022 Revision) in relation to Cabinet waivers you are seeking. Your request as currently phrased the request in relation to Cabinet waivers is too broad and would be a diversion of resources to research.

Note that I mention the Immigration Act (2015 Revision) because you are seeking records which go back to 2017 as such that would have been the law in force prior to the coming into force of the Immigration (Transition) Act, 2018.

As such please clarify what other sections other than Prohibited Immigrants and Section 53(1)(b) are you seeking records on.

The same day, the applicant advised,

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 the applicant with a letter of acknowledgement advising that the request was split, as such, a portion of the request was transferred to the Ministry of Border Control, Labour & Culture (BCL&C).

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

On 26 November 2024, a decision was provided 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, the applicant 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 the applicant.



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

We will investigate this appeal, and the parties will be given an opportunity to resolve it informally.

If you have any questions or concerns at any time during this process, please do not hesitate to contact me at +1 345 244-6158 or charlene.roberts@ombudsman.ky. For ease of reference, I have also attached our Appeal Policy and Procedures. You will find additional information in the Resources section of our website: <https://ombudsman.ky/resources>.

Kind regards,

Charlene Roberts

Senior Appeals and Policy Analyst, Information Rights