



Mr Andrew Thompson
Garuda Publications

16 July 2013

Dear Mr Thompson,

Freedom of Information request (our ref: 26722): internal review

Thank you for your letter of 13th June 2013, in which you asked for an internal review of our response to your Freedom of Information (FOI) request about obtaining the Life in the UK test questions and answers.

I have now completed the review. I have examined all the relevant papers, 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 policy unit followed the necessary procedures and have correctly withheld the requested information under section 31(1)(e). The previous Life in the UK test questions have a significant crossover with the current set of questions, therefore, the Life in the UK test questions and answers cannot be disclosed.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your FOI 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

A Koroma
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Mr Thompson (reference 26722)

Responding Unit: Operational Policy Rules Unit (OPRU)

Chronology

Original Fol request: 05 March 2013

OPRU response: 14 May 2013

Request for internal review: 11 June 2013

Subject of request

1. On 5 March 2013, Mr Thompson submitted a request for the release of the official questions and answers for the Life in the UK test in operation prior to 25 March 2013. Mr. Thompson also requested the overall candidate success rates against each of these questions.

The response by OPRU

2. On 14 May 2013, the Home Office replied to Mr Thompson's request and refused the request in full citing section 31(1)(e), which states information is exempt from disclosure, if it would be likely to, prejudice the operation of the immigration controls. It was determined that the questions prior to 25 March 2013 would have a significant crossover with the current set of questions. Some sections of the handbook have had minimal updates therefore there is minimal change between the current and former questions.

The request for an internal review

3. On 11 June 2013, Mr Thompson requested an Internal Review stating he was dissatisfied with the response he received for his FOI request. Mr Thompson argued for the information to be released based on the current access to official test questions and examples on the website and in the official practice book. Mr Thompson agrees that it is unreasonable to release the current test questions but believes a partial redacted release should be sufficient.

Procedural issues

4. The Home Office received Mr Thompson's request by letter on 7 March 2013.
5. The response was not sent within 20 working days; consequently the Home Office was in breach of section 10(1) of the FOI Act.
6. The response confirmed that information was held relating to the request and cited the section of the Act that it was being withheld under, as required by section 1(1)(a) of the Act.
7. The response of 14 May 2013 informed him in writing of his right to request an independent review of the handling of his request as required by section 17(7)(a) of the Act. It also informed him in writing of his right of complaint to the Information Commissioner as required by section 17(7)(b) of the Act.

Consideration of the response

8. As stated in paragraph 2, the Home Office response of 14 May 2013 informed Mr Thompson that the information could not be released citing section 31(1)(e). This section states that disclosure of information under this Act would be likely to prejudice the operation of the immigration controls. It has been determined that the release of the questions and answers would prejudice the operation of the current Life in the UK test as the tests have minimal variation in some parts.

Public Interest Test Considerations

9. As section 31 is a qualified exemption, a public interest test is required to determine whether the public interest in disclosing the information is outweighed by the public interest in withholding the information.
10. The public interest is not the same as what interests the public. In carrying out a public interest test we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and to service the best interests of the public.
11. The Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for the information. In providing a response to one person, we are expressing a willingness to provide the same information to anyone, including those who might represent a threat to the UK.
12. Mr Thompson's first request was for the questions and answers for the Life in the UK test to be released on the basis that they are effectively already in the public domain. If the test was to be released the operation of the current Life in the UK test would be compromised. It would also undermine an individual's understanding and knowledge of language and life in the UK. Mr Thompson's second request was for the candidate success rate for each of the questions. These cannot be released as this would also prejudice the operation of the test.
13. The OPRU has confirmed that the current example test questions are provided by the TSO publisher and not from the official tests. The Life in the UK test is administered by Learn Direct while all questions are approved by the Home Office before being used. Some of the previous questions are similar in format to the current test questions. This increases the likelihood of the current test being compromised due to the similarity in content. It has also been confirmed that there is a possibility the previous test questions could be re-used in the future, which would undermine the purpose of the test if released. Given this, it has been determined that it is necessary to withhold the information as to release the test would cause significant harm to immigration control.

14. The public interest is in favour of non-disclosure of the information requested as the offer of settlement and citizenship gives an individual many rights in the UK including access to public funds. Providing the test questions and answers would essentially allow an individual to circumvent the immigration controls, which are in place to allow only those who are entitled to remain in the UK to do so and receive the benefits that it brings.
15. Having considered the evidence provided, including all related correspondence to the FOI request, I am satisfied that the Home Office have come to the correct conclusion that the information should be exempt under section 31(1)(e) of the Freedom of Information Act. This is because the level of understanding of the language and knowledge of those taking the test needs to be upheld and the integrity of controls needs to be maintained.

Conclusion

16. The response was not sent within 20 working days; consequently the Home Office was in breach of section 10(1) of the FOI Act.
17. Section 1(1)(a) was complied with, as the response clearly stated that the requested information was held.
18. Section 31(1)(e) was correctly engaged.
19. The response complied with the requirements in section 17(7)(a) and 17(7)(b) as it provided details of the complaints procedure.

Information Access Team
Home Office
16 July 2013

Annex A – full text of Mr. A Thompson's request

Andrew Thompson Garuda Publications

5 March 2013

UK Border Agency
Freedom of Information Act Policy Team 11th Floor
Lunar House, Short Corridor
40 Wellesley Road
Croydon
CR92BY

Dear Sir/Madam

FOI ReQuest - Re!ardin!! the Questions for the Life in the UK Test prior to 25 March 2013

It is requested that the information be r!leased as soon as reasonably possible after 25 March 2013

Requesters name: Andrew Thompson
Correspondence address: 41 Beech Close, Walton on Thames, Surrey KT12 5RQ

Information requested

As you know, a new study guide for the Life in the UK Test (ISBN 9780113413409) has been published. This supports a new version of the Life in the UK Test which comes into place on 25 March 2013.

The official questions and answers for the test that is to be superseded on 25 March 2013 were not made available during the lifetime of that version of the test.

With the introduction of a new test based on different study material those questions are now redundant. There should be no commercial sensitivity in the event of their release and there availability in the public domain should have no bearing on the outcomes of the new version of the test.

Request 1

I would like to request that all of the official questions and answers to the Life in the UK Test that relate to the superseded study material (specifically Life in the United Kingdom: a Journey to Citizenship; Chapters 2 to 6) be provided as soon as reasonably possible after 25 March 2013. An electronic version of the questions would be preferred.

Request 2

If overall 'correct answer candidate success rates' against each individual question requested above are available then those percentage success rates are also requested.

'Correct answer candidate success rates' is defined as: The number of correct answers of an individual question divided by the total number of answers against that question. [total counts and percentages]

I look forward to hearing from you

Andrew Thompson

London

UK

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020 77 008 240

020 77 008 240

Annex B – full text of Home Office response

Strategy And Assurance Group
PO Box 306
The Capital
Liverpool
L2 0QN
T: 0845 606 77 66
E: SettlementOpsPolicy@homeoffice.gsi.gov.uk
W: www.ukba.homeoffice.gov.uk

Andrew Thompson
Garuda Publications

14 May 2013

Dear Mr Thompson

Thank you for your letter of 5 March 2013, in which you ask for:

1. The official questions and answers to the Life in the UK test in operation prior to 25 March 2013.
2. The overall correct answer candidate success rates against each of these questions.

Your request has been handled as a request for information under the Freedom of Information Act 2000. I am very sorry for my delay in replying to you.

I can confirm that the Home Office holds the information that you requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 31(1)(e) of the Freedom of Information Act. This provides that information can be withheld where disclosure would, or would likely to, prejudice the operation of immigration controls and the public interest falls in favour of applying this exemption.

This is because disclosure of this information would prejudice the operation of the current Life in the UK test (being used since 25 March 2013). Further information, including the arguments for and against disclosure in terms of the public interest, are set out in the attached Annex.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference FOI 26722. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team
Home Office Ground Floor, Seacole Building
2 Marsham Street
London SW1P 4DF
e-mail: info.access@homeoffice.gsi.gov.uk

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

Yours sincerely

Catherine Monaghan
Family & Settlement Operational Policy

Annex

Freedom of Information request from Mr Andrew Thompson (reference FOI 26722)

Information requested

1. The official questions and answers to the Life in the UK test in operation prior to 25 March 2013.
2. The overall correct answer candidate success rates against each of these questions.

Response

The information is exempt from disclosure under section 31(1)(e) of the FOI Act. Section 31(1)(e) provides that information can be withheld where disclosure would, or would likely to, prejudice the operation of immigration controls and the public interest falls in favour of applying this exemption.

The Knowledge of Language and Life (KOLL) is a requirement for settlement and citizenship. If a person wishes to make the UK their permanent home, it is reasonable to expect them to show, amongst other things, that they know about life in the UK. It can currently be demonstrated either by passing the Life in the UK test, or by attending a English for Speakers of Other Languages (ESOL) with citizenship course

The Life in the UK test is administered by Learn Direct who are responsible for maintaining the list of test questions. All questions are approved by the Home Office before being used.

Up until the 25 March 2013, test questions were based on the handbook 'Life in the United Kingdom 2nd Edition: A Journey to Citizenship'. A new version of the handbook was published on 28 January 2013 and provides a more accurate reflection of living in the UK, with a greater focus on British culture and history. Tests taken on or after 25 March 2013 will be based on the handbook 'Life in the United Kingdom 3rd Edition: A Guide for New Residents'.

Although the questions from prior to 25 March are no longer tested, there is significant cross-over with the current set of questions. This is especially apparent in sections of the handbook that have had minimal updates. For example, topics that are covered in both test questions include: 'Nations of the UK, religion, customs and traditions' (chapter 4 in the 3rd edition handbook, and chapter 3 in the 2nd edition) and 'British Constitution' (chapter 5 in the 3rd edition of the handbook, and chapter 4 in the 2nd edition). For other sections, the format of the questions is very similar to those used in the previous test.

Therefore, the operation of the current Life in the UK test would be compromised if the previous test questions were disclosed. This is because the content and format of the questions are so similar between the two versions of the test. If applicants have an enhanced familiarity of the questions prior to taking the test, it undermines it as an effective assessment of a person's understanding of the handbook and therefore their knowledge of language and life in the UK.

Public interest test

We have considered the public interest that there may be in disclosing this information to you. The release of the previous test questions and the correct answer rate for each question would improve transparency of Home Office immigration controls. The information would allow an assessment of

the effectiveness of the Life in the UK test questions and would also facilitate discussion on their appropriateness as a measure of a person's KOLL. It could also be clearer for the need of a new set of questions based on all chapters of the handbook.

We have then considered the public interest that there may be in maintaining the exemption to the duty to communicate.

KOLL is a requirement for both citizenship and settlement. Therefore, if a person is not exempt, they must meet this requirement to stay in the UK permanently. Settlement and citizenship give a person many rights in the UK, including access to public funds. It is therefore very important for all requirements to be robustly and fairly assessed.

The Life in the UK test requires commitment on the part of the applicant and there is a large amount of information in the handbook that needs to be studied in order to pass. However, we feel that in doing so migrants are able to obtain information that is vital if they are to be fully integrated into UK society. The handbook provides a useful and practical way for migrants to learn more about life in the UK and the questions set in the test allow applicants to display a level of knowledge of what it means to be a citizen of modern, democratic Britain.

Having the previous test questions in circulation is likely to reduce the need for many to fully study the handbook. It could also reduce the capacity of the test to be an effective measure of a person's ability to read and understand information, and could instead become about memorising specific answers.

From October 2013, unless exempt, all applicants for settlement and citizenship will be required to meet the KOLL requirement by passing the Life in the UK test and by presenting a relevant speaking and listening qualification. Therefore, as this test will be taken by all applicants, it is especially important for it to remain a robust assessment.

English language ability is important to aid integration and helps ensure that those who settle here are able to participate in British life and are better able to gain employment.

We have considered whether, in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We conclude that, because the release of the test questions in operation prior to 25 March would inhibit the operation of the current test, the balance of the public interest lies in withholding the information.

Date : 14 May 2013

Annex C - Full text of Mr Thompson's request for an internal review

Andrew Thompson
Garuda Publications

11 June 2013

Information Access Team
Home Office
Ground Floor, Seacole Building
2 Marsham Street
London SW1P 4DF

Dear Sir/Madam,

Request for Independent Internal Review – FOI 26722

Thank you for your letter of 14 May 2013. I am dissatisfied with the response and, as per your correspondence, request an independent review.

I have set out below why I am dissatisfied with the response:

The request has essentially been declined on the grounds that the current Life in the UK Test would be compromised by release of the information because:

1. The 'format' of the questions are similar between the two versions of the test.
2. There is a 'significant' cross-over between the questions for the test prior to 25 March 2013 and the current test.

In relation to (1) format of the test becoming known this is not a valid or reasonable objection for the following reasons:

- The official test website for the Life in the UK Test describes the format of the test questions and provides official examples.
- The Official Citizenship Test Study Guide ISBN 9780113413249 supplied sample tests in the prescribed format for the old test.
- Life in the United Kingdom: Official Practice Questions and Answers, 2013 Edition, ISBN 9780113413430 supplies sample tests in the prescribed format for the current test.

Given the dissemination of official guidance in the format of the test above then the release of the old questions will provide no new information on the format of the test, ie the objection is not valid.

In relation to (2) there being 'significant' cross-over between the questions for the test prior to 25 March 2013 and the current test.

- I concur that it would not be reasonable to release questions that are still in use in the current test.
- However, I believe the appropriate FOI response would be a partial release. By this I mean to release all of the information requested but excluding or redacting the questions still in use.
- I would also request independent review of whether the cross-over claimed really is 'significant'. What percentage of the old questions is affected?

The outcome I am seeking from this independent review is of the release of:

1. All of the official questions and answers to the Life in the UK Test that relate to the superseded study material (specifically Life in the United Kingdom: a journey to Citizenship; Chapters 2 to 6) be provided as soon as reasonably possible. An electronic version of the questions would be preferred. Any questions still in use in the current test to be redacted or excluded from the release.
2. Overall, 'correct answer candidate success rates' against each individual question 'Correct answer candidate success rates' is defined as: The number of correct answers of an individual question divided by the total number of answers against that question. [total counts and percentages]. Any questions still in use in the current test to be redacted of excluded from the release.

I look forward to hearing from you.

Best wishes

Andrew Thompson

Publisher

Garuda Publications