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Ref F0006584

5 April 2013

Dear Mr Bentham

I am writing in response to your e-mail of 28 January requesting information about immigration from Romania and Bulgaria following the removal of transitional controls at the end of 2013. Your request was received in the Department on 29 January.

**Your request for information**

Your request asked for the following:

- Copies of any documents submitted to the Secretary of State for Communities and Local Government since September 1 2012 containing estimates of the number of Bulgarian and Romanian citizens who might be expected to come to the UK once the current restrictions on their ability to work in this country expire.*

You also asked that:

- If any of the contents of these documents are covered by exemptions under the FoI act, that the Department should provide you with the figures contained in the documents relating to potential arrivals from each of these two countries (Bulgaria and Romania), the timescale to which the estimates apply, and the source of the estimate (i.e. which government department provided the statistics, if it was not the Department for Local Government and Communities).*

I have considered your request in accordance with the provisions of the Freedom of Information Act 2000.

**Research into A2 migration push and pull factors**

I can confirm that the Department holds some information relevant to your request. Some of it is already published and accessible to you, and so is exempt under Section 21 of the Act.

A technical report on "*Identifying social and economic push and pull factors for migration to the UK by Bulgarian and Romanian nationals*" has been on the DCLG website since October 2011:

<http://webarchive.nationalarchives.gov.uk/20120104120950/http://www.communities.gov.uk/archived/general-content/corporate/researcharchive/volume8immigration/>

It was published alongside a Parliamentary written statement

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111010/wmstext/111010m0001.htm#1110102000160>

and a Ministerial statement.

<http://webarchive.nationalarchives.gov.uk/20120104120950/http://www.communities.gov.uk/statements/newsroom/legacyresearchimmigration1>

This analysis was commissioned by the last Administration and should be treated with caution; the research document was not peer-reviewed; and some of the groupings used in the analysis contain small numbers that are based on a sample survey.

### **Research into potential impact of A2 migration**

The Department also holds a report commissioned by the Foreign and Commonwealth Office from the National Institute of Economic and Social Research on the possible impact of the ending of transitional controls on Romanian and Bulgarian nationals.

This report was published today by the FCO and I enclose a copy for your reference. It explains the practical and methodological difficulties in calculating such estimates. You can also find the report on the FCO website:

<https://www.gov.uk/government/publications/potential-impacts-on-the-uk-of-future-migration-from-bulgaria-and-romania>

### **Cabinet Committee papers**

I can confirm that we hold another set of documents that falls within scope of information that you requested. The information held consists of Cabinet Committee papers and emails between officials and Ministerial offices. These documents were part of the Government's broader domestic planning for the lifting of labour market restrictions on A2 countries.

However I am unable to provide it because we consider that it is exempt under the following sections of the Freedom of Information Act:

Section 35(1)(a) - information relating to the formulation or development of government policy. The information held consists of Ministerial Committee papers and emails between officials and Ministerial offices.

Section 35(1)(b) - information relating to ministerial communications.

This exemption covers only communication between one Minister and another in their position as Ministers; in this case, information held consists of Ministerial Committee papers.

The exemptions at section 35(1)(a) and section 35(1)(b) apply as a matter of fact as the information relates to either the formulation or development of government policy or



Ministerial communications. However, I consider that, in the alternative, information held would also be exempt under the following sections of the Freedom of Information Act:

Section 36(2)(a)(i) - information whose disclosure would prejudice the maintenance of the convention of the collective responsibility of Ministers of the Crown. The information held consists of Ministerial Committee papers.

Section 36(2)(b)(i) - information whose disclosure would inhibit the free and frank provision of advice. The information held consists of emails between officials and Ministerial offices and Ministerial committee papers.

Section 36(2)(b)(ii) - information whose disclosure would inhibit the free and frank exchange of views for the purposes of deliberation. The information held consists of emails between officials and Ministerial offices and Ministerial committee papers.

Sections 35 and 36 are qualified exemptions. Therefore, we have had to consider whether the public interest in withholding the information is outweighed by the public interest in disclosing it.

The Department recognises how the public interest in general is served by the release of information it holds, and how it aids the transparency and accountability of government. It also recognises how this, in turn, increases public trust and confidence in the policy decisions made by Ministers which affect citizens. We believe that there is a public interest in having access to the Government's internal consideration relating to Bulgarian and Romanian migration to the UK following the lifting of the interim restrictions at the end of 2013. This information is of particular interest to those who may be concerned about the possible impact on public services. There is a public interest also in being able to assess the quality of advice being given to Ministers and the subsequent decision making process on this important subject. In addition, we recognise that as knowledge of the way Government works increases, the public contribution to the policy making process could become more effective.

However, Cabinet government and the confidential nature of Cabinet proceedings are long standing and fundamental conventions of the United Kingdom's constitution. Through the section 35 and section 36 exemptions, Parliament has demonstrated the importance it places on the need to safeguard these decision-making processes and protect collective responsibility in government.

There is a strong public interest in ensuring that the policy-making process is of high quality and it is this that sections 35(1)(a) and 36(2)(b)(i) and (ii) are designed to protect. In order to reach the best possible decision on any matter of policy, Ministers and officials need to feel free to discuss all the available options freely and frankly with one another without fearing that these discussions will be made public.

The Government is currently undertaking ongoing work on the impact of the ending of transitional controls on migration from Romania and Bulgaria. Concern that discussion on this issue could be made public would therefore have an ongoing inhibiting and detrimental effect on the candour of advice and views expressed which would jeopardise the fully informed and thoroughly considered decision-making process that currently exists through impairing the quality of advice presented to Ministers. This would, in turn, undermine the quality of policy-making.



There is in particular a strong public interest in maintaining the convention of ministerial collective responsibility for government policy and it is this convention which section 35(1)(b) and section 36(2)(a)(i) are designed to protect. If Ministers thought that their views would be revealed publicly, the nature of policy discussions would be very different. This would have a detrimental effect on both the process of collective government and quality of decisions made at the highest level. If advice provided by officials for ministerial committees was made public it would have an ongoing and detrimental effect on that advice which would become more reticent or circumscribed. Ministers would also be inhibited from asking for advice from officials, particularly on high profile issues such as migration from Romania and Bulgaria. Officials would also be less likely to engage in discussion as part of a deliberative process.

On the basis of the above I consider that the public interest in withholding the information outweighs that in disclosure. Accordingly, I am withholding this part of the information that you have requested.

### **Advice and assistance**

Under section 16 of the Freedom of Information Act, it is the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it. On that basis, I can confirm that Ministers in this Government have decided not to make estimates of the numbers of Romanian and Bulgarian nationals that may migrate to the UK following the removal of transitional controls at the end of 2013.

The Secretary of State, Rt Hon Eric Pickles MP, referred to the 2011 research at a recent Press Gallery event in Westminster. A report of his comments can be found online. Mr Pickles states: "No matter how many fancy calculations you can make, I don't know. The truth is nobody really knows. All the government can do is be careful about pull factors that might range from the health service to housing and benefits to try to ensure there isn't an extra attraction to come here" (Daily Mail, 20 March 2013)

<http://www.dailymail.co.uk/news/article-2295903/Ridiculous-Coalitions-blast-Labour-figures-migrant-wave-Romanians-Bulgarians-just-12-700.html>

Ministers in this Government has taken this decision as it is not credible to accurately forecast likely inflows from Romania and Bulgaria once restrictions are lifted, because they are dependent on too many uncertainties to draw robust conclusions. This is very different to 2004, when Britain was one of the few countries not to introduce transitional controls on the new EU member states. This time all those countries that still have restrictions (Austria, Belgium, France, Germany, Luxembourg, Malta, the Netherlands and Spain) will be lifting them at the same time. In addition, Romanian and Bulgarian nationals have already had free movement rights and the ability to enter the UK and work on a self-employed basis. There are also huge differences in the economic and the demographic circumstances.

Rather than produce speculative projections, this Government is focusing on work to cut out abuse of free movement and address pull factors, such as access to benefits and public services. The Government has also made clear it will always apply transitional controls on new EU member states. More information on the action that the Government is taking is set out in the recent speech by the Prime Minister, which can be found on the No10 website:

<http://www.number10.gov.uk/news/immigration-speech-ameron/>

## Case handling

As an organisation, the Department for Communities and Local Government aims to be as helpful as possible in the way it deals with requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. If, however, you are not satisfied with the way in which your request has been handled or the outcome, you may request an internal review within two calendar months of the date of this letter by contacting [foirequests@communities.gsi.gov.uk](mailto:foirequests@communities.gsi.gov.uk)

In the event that you remain dissatisfied following the Department's review you have the right to apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the Internal Review procedure provided by the Department.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications about this request.

Yours sincerely,

*Stuart Hoggan*

**STUART HOGGAN**

