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Benefits & Credits

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Date 16 December 2015
Our ref FOI 3363/15
Your ref

Dear Mr Portes,

Freedom of information Act 2000 (FOIA)

I refer to your request of 2 December for the following information:

“Using the methodology and data sources set out in <https://www.gov.uk/government/statistics/uk-benefit-and-tax-credit-claims-by-recently-arrived-eea-migrants>

*1. How many individuals are recorded in DWP and/or HMRC computer systems who were a) nationals of another EEA member country (other than the UK) at time of registration for a National Insurance Number (on the basis set out in this DWP publication) AND b) are recorded as having arrived in the last four years (using the most recent available data) and using the earlier of (a) arrival date, or; (b) NINO registration date AND c) have either (i) paid National Insurance contributions over the previous year OR (ii) paid PAYE income tax over the previous year OR (iii) claimed benefits or tax credits over the previous year (on the same basis as in the DWP publication) This question can be answered as you determine appropriate either by reference to a 100% or a smaller (presumably 5%) sample and scaled up to provide an estimate for the whole population (with error bounds in the latter case).
2. The same question but for non-EEA nationals.”*

I can confirm that HMRC does hold information in scope of your request but it is covered by the exemption in section 35(1) (a) *information held for the formulation or development of government policy.*

The government's policy on EU migrants' access to benefits is currently under development. The information requested is exempt from disclosure to protect the private space within which Ministers and their policy advisors can develop policies without risk of premature disclosure.

As required by the Act, I have assessed the public interest for and against disclosure. There is a public interest in greater transparency which makes Government more accountable to the electorate and increase trust.

However, following the General Election, there is an active negotiation process at an international level in which UK Ministers and officials are engaged to secure support from the European Commission and other Member States for changes in EU law governing EU migrants' access to benefits in the UK, in line with the Government's manifesto commitments. The information is being used to inform the development of policy options as part of the negotiation process and therefore relates to the formulation of Government policy. HMRC continues to believe that releasing information in the form requested would, at this stage, be unhelpful to the negotiation process.

Therefore in this case, HMRC is satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosure.

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 1C/23, 100 Parliament Street London SW1A 2BQ or by e-mail to foi.review@hmrc.gsi.gov.uk. You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of an internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

Philip Hogan
Policy Advisor