

7 August 2009



Foreign &  
Commonwealth  
Office

## **YOUR FREEDOM OF INFORMATION REQUEST**

Further to my letters of 4 June, 2, 16 and 30 July I am writing in response to your request of 6 May 2009 under the Freedom of Information Act for information regarding changes of the eligibility criteria for Gurkhas to reside in the United Kingdom, from 1 January 2009 to the present day.

I can confirm the Foreign and Commonwealth Office (FCO) holds information relevant to your request. I attach the material releasable to you under the Act.

Some of the information that you have requested has been withheld under Section 27(1)(a) of the Freedom of Information Act (likely to prejudice international relations) and Section 35(1)(a) (formulation of government policy).

With reference to Section 27 the information within the scope of your request relates to information shared between the UK and the government of Nepal. This exemption requires the application of the public interest test. Factors in favour of release include that it will increase public knowledge of the issues and inform debate. However, the effective conduct of the UK's international relations with Nepal depends upon maintaining trust and confidence with the Government of Nepal. This relationship of trust allows for the exchange of information on the understanding that it will be treated in confidence. If the UK does not maintain this trust and confidence, its ability to act as a significant player in Nepal, and to protect and promote UK interests through international relations, will be hampered. The Government of Nepal may be more reluctant to share information with the UK Government in future, and may be less likely to respect the confidentiality of information supplied by the UK Government to them, to the detriment of UK interest. For all these reasons, we consider that the public interest in withholding the information outweighs the public interest in disclosing it.

With reference to Section 35(1)(a) some of the information within the scope of your request relates to the formulation of government policy. This Section is statutory recognition of the public interest in allowing government to have a clear space for Ministers, officials and providers of expert advice to debate matters internally and conduct robust risk assessments with complete candour, free from the pressures of public political debate in order to produce realistic and properly considered policies. Government officials need to be able to expose the merits and de-merits of all the policy options as appropriate. Specific factors in favour of withholding this information are the fact that it relates to the formulation and development of government policy on criteria for the settlement of Gurkhas in the UK. There is a risk that officials' future candour in considering the drawbacks of various options would be affected



by their assessment of whether the content of such discussions will be disclosed in the near future or that particularly sensitive exchanges of views would not be recorded for the written record. For these reasons, the public interest in withholding this information outweighs the public interest in disclosing it.

A small amount of personal data has been redacted as it is exempt under section 40 (2) of the Act. The names of some officials have been redacted from e-mails as they are not relevant to the request.