

Nigel Jagger [request-28969-  
xxxxxxxx@xxxxxxxxxxxxxxxxxxx]

Central Policy IS  
Rm 1C/25  
100 Parliament Street  
Westminster  
SW1A 2BQ

**Tel** 0207 147 0233

**Fax** 020 7147 0666

**Email** xxxxxxxx.xxxxxx@xxxx.xxx.xxx.u

**Date** 31 March 2010  
**Our Ref** 1190\_10  
**Your Ref**

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **Request for an internal review under the Freedom of Information Act 2000 1069/10**

Dear Mr Jagger

I refer to your request for a review of HMRC's reply to your request 15 February 2010 for:-

*'a list of the documents, produced between 1/10/07 and 31/12/07 by the following departments, which refer to the retrospective measure announced in Budget Note 66 on 12th March 2008.*

- *Business International*
- *Knowledge Analysis and Intelligence*
- *Specialist Investigations*
- *Solicitors Office'*

In response HMRC said that it did not hold such list. You believe that this reply was contrary to the Information Commissioner' (ICO) guidance on lists and schedules.

In deciding how to reply to your request HMRC did take account of the criteria set out in the ICO's guidance but, having done that, decided that the information was '*not held*'. The thrust of that guidance is, if I may paraphrase it, if the information requested is held:-

- a) In a data base that could be manipulated or
- b) In a manual record from which it would not require '*skill and judgement*' to extract it.

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It is held; i.e. in this instance that would mean we would be expected to compile the list. The ICO guidance goes on to say that in the circumstances where we are expected to compile the list we may take account of the costs.

Whereas, if the information was held in manual record and would require a high level of *'skill and judgement'* to extract it, the information is not held; i.e. the public authority would not be expected to compile the list.

Going back to your request which was for *'a list of the documents, produced between 1/10/07 and 31/12/07 by the following departments, which refer to the retrospective measure announced in Budget Note 66 on 12th March 2008'* there is not a data base or electronic record from which we could extract the information.

It would require a detailed knowledge of the subject to identify from our paper files those documents which referred to the measure announced in March 2008. You will appreciate that, as the BN was not published until March 2008, the exercise could not be undertaken by a straightforward search using that number as the criteria. If, as seems the case, you wanted a title that encapsulated the contents of each document rather than a list showing date and type of document (e.g. in the format dd/mm/yy *'e-mail'* or dd/mm/yy *'submission'* or dd/mm/yy *'note of meeting'*) it would necessarily need an in depth consideration of the contents of each document to see if it referred to measure and then compose a suitable *'heading'* to include in the list; using the ICO's criteria a high level of *'skill and judgement'* would be needed. It is for these reasons we concluded, in line with the ICO's guidance that the information was not held. And my conclusion is that remains the case.

Even if I were to accept that skill and judgement was not needed given you have asked for all documents which *'refer'* to the issue held in 4 disparate parts of HMRC it would be a very time consuming exercise to review all the documents held by those areas to see which had any reference to the measure. You will appreciate that the way request is worded would mean we would have to identify any reference, no matter how trivial or inconsequential, in any documents held by them. Such an exercise would exceed the costs limit in the Act.

Accordingly I uphold the original decision dated 15 March 2010.

If you remain dissatisfied with the outcome of this review you may now ask the Information Commissioner to investigate. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Yours sincerely

**Margaret Earing (Mrs)**