

Mr W Thackeray

(by e-mail)

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**Our Ref** 1231/09

**Your Ref**

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

Dear Mr Thackery,

Thank you for your e-mail of 23 March 2009 requesting a review of HMRC's response to your request for information about hospitality provided by Scientology organisations.

I have now completed my review. I conclude that HMRC's response that it could neither confirm nor deny it holds the information because the cost of ascertaining that would exceed the appropriate limit in the fees regulations coming out of section 12(2) Freedom of Information Act 2000 (FOIA) was correct. I set out below my reasons for coming to this conclusion.

### **Your requests**

You made 2 requests to HMRC; because they are both closely related I have considered them both as part of my review. They were:-

#### **a) 3 February 2009**

You asked for 'a list of all gifts, hospitality or donations supplied to HMRC by Scientology organisations, over the past 5 years'.

In her reply on 19 February 2009 Teresa Chance made the following points:-

- HMRC had interpreted your request for 'donations' as being for monetary donations,

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- HMRC had only been in existence since April 2005 so the reply only covered the period from then,
- HMRC could not say whether or not the information was held because of the fees limit,
- Suggested ways you might make a modified request,
- Provided information about hospitality outside the terms of the Act.

#### **b) 23 February 2009**

You made a modified request which you said should include:-

- *Organisations which formerly had a separate existence but which are now part of HMRC.*
- *By 'Scientology organisations', I mean organisations which promote, recruit members for, or raise money for, Church of Scientology Religious Education College Inc (a US corporation which has been denied charitable status in the UK). You listed some of the likely candidates as being Citizens Commission on Human Rights (United Kingdom) Ltd / Citizens Commission on Human Rights International / Jive Aces / Church of Scientology Inc / Greenfields School / Greenfields Educational Trust / Hubbard Foundation / ABLE / Applied Scholastics International / Narconon / Criminon / The Way to Happiness Foundation International / Church of Scientology Religious Education College Inc / Office of Special Affairs (OSA) / Sea Org / Youth for Human Rights International*
- *By 'donations', I mean donations of any kind.*

On 23 March 2009 Teresa replied. She said:-

- She had treated it as a fresh request,
- Rather than narrow the scope of your first request you had effectively increased it by:-
  - extending it to cover HMRC, the former Inland Revenue and Customs and Excise which increased the number places and years for which a search would be required,
  - Increasing the number of organisations.
- HMRC was still unable to confirm whether or not it held the information because of the fees limit.

It is this second request that is the subject of your request for a review.

#### **My review**

HMRC staff are required to record hospitality they receive in registers in accordance with the guidance which Teresa told you about. These registers are kept at a local level by business streams. Individual buildings are likely to include staff working in several business streams so there is likely to be more than one hospitality register per building.

At the moment HMRC has around 89000 staff located in 350 offices; doing a search across the department with its present structure would be prohibitively expensive. On merger in April 2005 there were 590 offices and 125000 staff; extending our search into earlier years increases the work significantly.

You said it would be in the public interest to release this information. While I can understand your view, the Act does not impose any public interest considerations on the fees limit.

For central government the appropriate limit was set at £600 based on staff time of £25 per hour; that's about 3½ days work for one person. Where the costs of establishing if the information is held, or if it is held, locating and retrieving it, exceed the appropriate limit it is for the public authority to decide whether it finds the information free of charge, charges or declines to deal with the request as too expensive. HMRC's consistent policy and practice is to decline to deal with the request. We believe that the appropriate limit strikes the right balance between an applicant's right to know and the amount of effort, both in terms of costs and distraction from core business, that the public authority should be expected to incur.

HMRC's is a statutory authority; its functions are defined by law and set out in sections 5 to 14 Commissioners for Revenue and Customs Act 2005. Publishing hospitality registers is not, as you suggest, one of those functions.

These registers are part of our internal administrative arrangements and in accordance with Cabinet Office guidance we publish the entries for senior staff. Teresa gave you a link to the published information. As you will have seen there are no entries from any of the organisations you mentioned.

As part of my review I looked at the administrative handling of your requests. Both requests were answered within the 20 day limit and the refusal notices complied with section 17FOIA.

### **Information outside of FOIA**

I looked to see if there was further advice or assistance HMRC could provide. I tried to find if there were parts of HMRC that specifically dealt with the Church of Scientology and its associated organisations. If there was I would have suggested you made a fresh request just in relation to those parts of our business. There is not so I am afraid that I cannot suggest any further options for you.

One of the areas I contacted was the one dealing with Charities, Assets and Residence. I just asked if they had a discrete area dealing with the Church. They do not but they also checked their hospitality registers; there are no entries relating to the organisations you mention. This limited information is being supplied outside the terms of FOIA because we could refuse to comply with your entire request for the reasons already explained and the information had not been collected at the point you made your request. Public authorities are required to answer requests based on the situation at the date it's received but having obtained this limited information after the event I think it is reasonable to tell you about it.

### **Conclusion**

I know this will be a disappointing reply but, if you remain dissatisfied, you may now complain to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

John Sharpe