Dear Ms Taylor

Request for an internal review under the Freedom of Information Act 2000

I am writing further to your request dated 15 July 2012 for a review of the reply to your recent request under the Act.

Your request

In a request via the WhatDoTheyKnow website dated 18 June 2012 you asked

*Please provide the policies and procedures the Tax Evasion Department/Investigations Team use to:*

1. Fully evaluate all information received by this office before being passed to an appropriate team

2. The criteria for assessment and action where considered necessary.

3. A copy of the Tax Evasion Department's policy and procedure to deal with complaints.

4. An explanation why findings from the HMRC Tax evasion investigations Team cannot legally be disclosed to the CSA and a copy of the policy & procedure on this particular aspect.
Our response

HMRC replied on 11 July 2012 citing section 31(1) (d) of the Act in respect of items 1 and 2, and providing the information requested in respect of items 3 and 4.

Your request for Internal Review

You wrote via the WhatDoTheyKnow website on 15 July seeking a review of the decision.

In summary you consider:

1. there is a lack of transparency about how reports to the Tax Evasion Hotline are assessed
2. there is a lack of feedback when reports are made to the hotline
3. there is no complaints process specific to the Hotline.

I have been asked to review your FOI request and its handling.

Internal review

The purpose of the Internal Review is to provide a fair and thorough review of decisions made pursuant to the FOIA. Your request was dated 18 June 2012 and I can see that the response letter was issued on 11 July 2012 within the statutory limit required by Section 10(1) of the Act.

The letter also gave you information about your right to request a review and to complain to the Information Commissioner in accordance with Section 17(7) of the Act.

The Act gives applicants two rights in respect of information held by a public authority:
(1) a right to be told if the information is held (known as the duty to confirm or deny); and
(2) a right to have that information communicated subject to any exemption or exemptions that might apply.

I note that HMRC confirmed whether information was held in respect of each of your questions.

I can confirm that I have taken your comments into account and consulted with the business team responsible for this area of work.

The first point I would make is that, in considering our response under the FOIA, we have to keep in mind that FOI is applicant and purpose blind.

You may wish to look at the Information Commissioner’s Good Practice Guidance 6 which can be found at the following link:


The guidance states:

“FOIA is, however, applicant and motive blind. It is about disclosure to the public and public interests.”

“….A request therefore has to be considered on the basis that it could have been made by any person; the identity of that person is not a material consideration when deciding whether or not to release information.”

As was acknowledged in our earlier response there is a strong interest in ensuring that HMRC is as transparent as possible about the ways in which it seeks to protect public
money. However, for the reasons set out in our previous response we consider that putting information about our assessment criteria, procedures and policies in the public domain is likely to put at risk our compliance activities. So on balance I conclude it is not in the public interest to set aside the exemption.

The Child Maintenance and Other Payments Act (2008) allows HMRC to disclose any information held for income tax, contributions, tax credits, child benefit or guardian’s allowance functions which will assist Child Support Agency - now known as the Child Maintenance and Enforcement Commission (CMEC) in its child support functions.

The CMEC can view a customer’s records through the government’s interchange of information which is a legal gateway of passing information between departments. However, HMRC cannot become involved in any issue about child support payments. The CMEC can continue to check our records to confirm if there has been a change of circumstances which may affect the payment of child support payments.

It may be helpful to know that HMRC currently is running a pilot with the CMEC to review the exchanging of information between the two departments to tackle non compliance issues.

However, HMRC is bound by legislative obligations which impose a high level of confidentiality over all of the taxpayer data held by it; this means that we may not disclose any information about a particular taxpayer other than in certain limited circumstances or by means of a prescribed statutory gateway (see s18(2) and (3) of CRCA as per our original response). That is why we are unable to provide feedback or updates to those who supply information via the Tax Evasion Hotline.

Additionally, what I can say is that HMRC uses a range of information sources and risk identification systems to identify, from a base of 31 million customers, those who may potentially not have declared the correct amount of tax. The finite resource available within HMRC is then targeted at the highest risk.

In respect of your point about feedback from the hotline, HMRC receives around 100,000 reports each year through its hotlines. Each piece of information received through the Hotlines is assessed and a decision made on the most appropriate course of action. With the volume of reports received, HMRC does not routinely acknowledge receipt.

I note your comments about there being no process for complaints specific to the Tax Evasion Hotline. As stated in our previous response, HMRC operates a single complaints process. This process is used each year by many thousands of people to make complaints about all aspects of HMRC’s work. It is a thorough and robust process that ensures consistency in how complaints are handled within HMRC. Additionally, anyone who remains dissatisfied with how their complaint has been dealt with by HMRC can contact the Adjudicator’s Office (see link to website below).

http://www.adjudicatorsoffice.gov.uk/

Conclusion

I am satisfied that HMRC treated your request correctly under the terms of the Act and that section 31(1)(d) has been correctly cited. Notwithstanding the points you have made in your review request, I consider that the balance of the public interest favours withholding details of our policies and procedures for evaluating information supplied to the Tax Evasion Hotline as disclosure would be likely to undermine our compliance activity in this area.
Appeal Process

This completes the review process in HMRC. If you are not content with the outcome, you may apply directly to the Information Commissioner who can be contacted at:

The Information Commissioners Office
Wycliffe House Water lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

Teresa Chance