



HM Revenue
& Customs

Mr Gordon Berry

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Our ref: IR2019/01172

Dear Mr Berry

Freedom of Information Act 2000 (FOIA)

Thank you for your email received 16 May 2019 asking HMRC to carry out an Internal Review of our response to your request for information under FOIA.

On 10 April 2019, we received your request for the following information:

“Now that the 5th April 2019 deadline has now passed. Can HMRC now tell me, in regard to DR loan schemes:

1. how many individuals (not corporates) registered for settlement;
2. how many calculations have been issued by HMRC to individuals (not corporates);
3. what is the average of those calculations issued to individuals (not corporates);
4. Of those issued to individuals (not corporates), how many signed settlement offers have actually been returned to HMRC:
5. What is the average value of signed letters of offer at question 4 above?”

HMRC responded to your request on 13 May 2019 confirming that information within scope of your request was held. This information was considered exempt from disclosure pursuant to section 22(1) of the FOIA.

The purpose of an Internal Review is to assess how your FOI request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review: I was not involved in the original decision.

HMRC received your request on 10 April 2019 and responded by email on 13 May 2019. This was within the statutory deadline in compliance with section 10(1) of the FOIA.

The response also set out HMRC's review procedure and your right to complain to the Information Commissioner, as required by section 17(7) of the FOIA.

Section 22(1) of the FOIA states that:

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



Information is exempt information if –

a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

b) the information was already held with a view to such publication at the time when the request for information was made, and

c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

In reviewing your request I have first considered whether HMRC was correct to cite section 22(1) FOIA.

In order to determine whether section 22 is engaged the Information Commissioner's Office (ICO) asks authorities to consider the following questions:

- When the applicant submitted the request, did HMRC intend the information to be published at some date in the future?
- If so, in all the circumstances of the case, was it 'reasonable' that HMRC should withhold the information from disclosure until some future date (whether determined or not)?

The response to your initial request advised that the requested information would be made available following the publication of the department's annual reports. I can confirm that the intention to publish this information was made prior to your request being received in response to the public interest on this subject.

I have considered whether it is reasonable in all the circumstances to withhold the requested information until publication owing to a need for validation, formatting compatibility and verification of the data prior to publication.

It is my view that the data requested must be checked for accuracy and interested stakeholders consulted prior to publication to ensure sensitive or misleading data is not released.

Taking the above in to account I am satisfied that section 22 is engaged in this case, however as this is a qualified exemption, I have gone on to consider the public interest test.

I agree that the information you have requested is reasonable and it is the public interest for HMRC to release this information. To do so would increase confidence in the department's work to tackle DR tax avoidance schemes and ensure that people understand that operations are carried out fairly and effectively.

HMRC acknowledges that there is a broad public interest in the Government's work and disclosure would be consistent with the Government's wider transparency agenda.

However, there was a strong public interest in HMRC having the space required to quality assure the information and ensure that the data it publishes is accurate and that sensitive information is not published in error. It is not in the public interest to release inaccurate or otherwise sensitive data.

It is an important principle that public authorities should be able publish information in a manner, form and timing of their own choosing. HMRC official's time would be better spent compiling, verifying and preparing for publication so that everyone gets to see the outcomes at the same time as opposed to dealing with a number of individual requests for variants of the same information.

I accept that there is a public interest in disclosure insofar as this would promote transparency about the outcomes of disguised remuneration settlements. However, I also

take the view that this public interest is significantly reduced by the fact that HMRC has always planned to publish the results.

I therefore find that HMRC was correct to apply section 22(1) in response to your request of 10 April 2019.

If you are not content with the outcome of this internal review, you can complain to the Information Commissioner's Office (ICO). You can make a complaint to the ICO by post to: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Instructions about this process are available at the following link: <https://ico.org.uk/concerns/>

Yours sincerely,

Freedom of Information Team