



# HM Revenue & Customs

Mr Winston Carling  
By email: Winston Carling <request-539221-8867e02d@whatdotheyknow.com>

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Date: 31 January 2019  
Our ref: IR2019/00192

Dear Mr Coyle

## **Freedom of Information Act 2000 (FOIA)**

Thank you for your email of 19 January 2019 asking HM Revenue and Customs (HMRC) to carry out an internal review of your request for information under the FOIA.

### **Original Request**

On 12 December 2018, we received your request for the following information:

“When answering question 231 on the Loan Charge by the Treasury Committee on 21 November 2018, Jon Thompson referred to a legitimacy of loan from the Cayman Islands. The session can be found at

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/treasury-committee/hm-revenue-and-customs-annual-report-and-accounts/oral/92710.html>

Do any individuals have a loan (legitimate or otherwise) from the Cayman Islands which will be caught by the Loan Charge?”

### **Initial Response**

We responded to your request on 15 January 2019 confirming that we are aware that some individuals have a disguised remuneration (DR) loan originating from arrangements made in the Cayman Islands and that will be affected by the 2019 loan charge. We also drew your attention to another reply dated 15 January 2019, to an identical question, confirming that HMRC has information that is within the scope of the request but that it would exceed the FOIA cost limit to reply to it.

### **Request for Internal Review**

You have asked for a review of our decision dated 15 January 2019 with regard to the handling of your request:

“I am writing to request an internal review of HM Revenue and Customs’ handling of my FOI request ‘Cayman Island Loan Charge Impact’.

Can you please confirm that at least one individual has a loan from the Cayman Islands that will be caught by the Loan Charge?

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



This answer has been worded to say "Some individuals have had a DR loan originating from an arrangement made in the Cayman Islands and will be affected by the 2019 loan charge" and this was not the question I asked.

For clarification, I am interested in situations where the lender is in the Cayman Islands and the loan payment is made to a UK-based individual as suggested by Jon Thompson using the phrasing "If there was a legitimate reason for having that loan from the Cayman Islands"

### **Internal Review**

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.

We received your request on 12 December 2018 and responded by email on 15 January 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.

### **Considerations**

In reconsidering your request I have reviewed both the information held by HMRC, the exemption cited and how this interacts with the information sought.

The information that we hold enables us to say that we are aware that some individuals have a DR loan originating from arrangements made in the Cayman Islands and that will be affected by the 2019 loan charge. The charge on DR loans is estimated to affect around 50,000 individuals. To provide the information you seek, HMRC would have to review each case, both electronically and papers, to identify DR loans originating from arrangements made in the Cayman Islands. We would then need to review each case identified to establish whether the lender was based in the Cayman Islands or not. As we pointed out in the similar request in our response of 15 January 2019, to conduct this work would exceed the FOIA cost limit under section 12(1) to deal with it. The cost limit, which is specified in regulations, equates to one person spending 3½ working days locating and extracting all of the information within scope of the request.

Normally, HMRC would explore with you how you might be able to narrow or refine your request so that it did not exceed the FOIA cost limit. However, in this case, I cannot see any scope for doing this.

### **Conclusion**

I have looked carefully at the way the team dealt with your original request, their response and the points you have made in your email of 19 January 2019. Following my review I believe that the exemption at 12(1) of FOIA should have been engaged for the reasons I have set out above.

### **Appeal process**

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

