



Central Policy

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Date 14 August 2012
Our ref FOI 2267/12
Your ref

Dear Mr Martin,

Freedom of Information Act 2000 (FOIA)

Thank you for your email dated 19 July 2012, in which you made the following request under the FOIA.

Would it be possible to supply me with a list of professional British football teams who have participated in the employment benefit trust schemes?

I am answering under the terms of the Freedom of Information Act 2000 (FOIA).

HMRC's Response

I can confirm that HMRC holds information falling within the description of your request, but it is being withheld because of the exemption in section 44(1)(a) FOIA which allows a public authority to withhold information which is itself prohibited from disclosure by some enactment.

HMRC has a duty of confidentiality in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA) which says we may not disclose information held for a function of HMRC; the information is held in connection with our function to assess and collect tax and would identify named football clubs.

Section 23(1) CRCA further provides that where information falling in section 18(1) relates to a 'person' who is identified or who could be identified the exemption in section 44(1)(a) FOIA applies. 'Person' includes both living persons and legal entities (see paragraph 110 of the explanatory notes to the CRCA).

Taken together, the above removes information about our customers from the right of access under FOIA. Section 44 is an absolute exemption and therefore does not require a consideration of the public interest.

I have included an appendix at the foot of this letter, with relevant extracts of legislation.

Appeals Process

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 1C/25, 100 Parliament Street London SW1A 2BQ or email xxx.xxxxxx@xxxx.xxx.xx You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of an internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

Teresa Chance

Appendix

Legislation relevant to disclosures under FOIA

Freedom of Information Act 2000

http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1

44 Prohibitions on disclosure

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—

- (a) is prohibited by or under any enactment,*
- (b) is incompatible with any Community obligation, or*
- (c) would constitute or be punishable as a contempt of court.*

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

Commissioners for Revenue and Customs Act 2005

http://www.opsi.gov.uk/acts/acts2005/ukpga_20050011_en_1

18 Confidentiality

(1) Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs.

23 Freedom of information

(1) Revenue and customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (c. 36) (prohibitions on disclosure) if its disclosure—

- (a) would specify the identity of the person to whom the information relates, or*
(b) would enable the identity of such a person to be deduced.
(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000.
(3) In subsection (1) “revenue and customs information relating to a person” has the same meaning as in section 19.

Explanatory Note to s19 CRCA

<http://www.legislation.gov.uk/ukpga/2005/11/notes/division/1/13/2/20>

110. Subsection (1) makes it an offence for any person to contravene the non-disclosure provisions of section 18(1), or of section 20(9), in relation to “revenue and customs information relating to a person” whose identity is revealed by the disclosure. The term “person” includes both natural and legal persons, and, for example, the tax affairs of a limited company are also protected by the provisions of the subsection.