



HM TREASURY

1 Horse Guards Road
London
SW1A 2HQ

25 November 2009

William: Sterling

Information Rights Unit

By email:
Request-22056-10bde2b5@whatdotheyknow.com

Tel: 0207 270 4558

Fax: 0207 270 4861

www.hm-treasury.gov.uk
FOI.responses@hmtreasury.gsi.gov.uk

Ref: 9/903

Re: Freedom of Information Act 2000: Fiduciary duty

Thank you for your enquiry dated 28 October requesting information under the Freedom of Information Act 2000.

2. You asked for information covering –

[the Treasury's] fiduciary duty and whether this is to the people. i.e. real men/women/their offspring (children) or to the Crown i.e. City of London

3. Following a search of our records, I confirm that we have discovered no information that details fiduciary duties of the Treasury. Searches of our electronic records for the word 'fiduciary' mainly returned results that were concerned with policy on other parties' fiduciary duties. However, to illustrate the difficulties this request presents, searches also produced information about the Treasury minute that is required to be laid before Parliament to authorise increase in the Bank of England 'Fiduciary Issue' – the amount of banknotes in circulation. This is clearly a Treasury duty related to the term you use, though I suspect not in the way you mean. To be helpful, I offer the following observations.

4. Your request is prefaced with some remarks about fiduciary duties being where one party acts in trust for another or others. Clearly, in the broadest sense, government departments act have a fiduciary duty to the Crown and to Parliament. This duty is set out in the Civil Service Code¹. In relation to public spending, departments discharge their stewardship responsibilities by reference to a Treasury guide 'Managing Public Money'². However, I think you draw the distinction between such constitutional duties and responsibilities owed to identifiable individuals.

5. In connection with our general stewardship responsibilities, you seem to suggest that the prime allegiance of the Treasury or the government might be to the City of London and I should not let that point go without comment. The Chancellor commented earlier this year,

'Our economy has a clear need for well managed, well functioning banks and financial institutions - to perform a vital set of functions - channelling investment and helping people save and plan for the future. But regulators and governments too must learn from the events of

¹ http://www.cabinetoffice.gov.uk/propriety_and_ethics/civil_service/civil_service_code.aspx

² http://www.hm-treasury.gov.uk/psr_mpm_index.htm



the last two years - better understanding the risks that come from rapid globalisation in the financial system'.

So the government's allegiance to commercial interests is not to be seen as being at the expense of individual citizens, but rather in their interests.

6. Lastly, I should acknowledge that the Treasury's activities cover an unusually wide span. It is difficult for me to state categorically that there is nothing in all of this that you might judge tantamount to a fiduciary duty. What I can say is that the Treasury is a policy department and it is unusual for it to take an operational role except in relation to fiscal management. It is notable that government interventions in the banking crises have resulted in the Treasury unusually having responsibility for institutional assets. In these circumstances, to provide an appropriate operational focus and address potential conflicts of interests, ministers have been careful to hive off such executive responsibilities to 'UK Financial Investments Ltd³' and to the 'Asset Protection Agency'. These bodies are treated as distinct authorities under the FOI Act.

7. If you have any queries about this letter, please contact me. It will be helpful to us if you remember to quote the reference number above in any future communications.



Paul Morran
Information Rights Unit

Your right to complain under the Freedom of Information Act 2000

If you are not happy with this reply, you may request a review by writing to HM Treasury, Information Rights Unit, 2/S2, 1 Horse Guards Road, London SW1A 2HQ.

Email FOI.responses@hmtreasury.gsi.gov.uk

Any review request must be made 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 your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

³ <http://www.ukfi.gov.uk/>

