



HM Revenue
& Customs

Mr Alastair Scott-McKinley

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Our ref: FOI2022/13490

Dear Mr Scott-McKinley

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 24 March, for the following information:

1. "Please can you advise when the last review of tax arrangements for foster carers was conducted and the outcome of this review?"
2. Please can you advise when the next review of tax arrangements for foster carers is due to occur?"

Our response

The primary tax arrangement for foster carers is given through the tax relief called 'qualifying care relief'. HMRC has therefore interpreted your request as referring to qualifying care relief.

HMRC can neither confirm nor deny whether it holds any information within the scope of the request on the basis of the provisions in [sections 35\(1\)\(a\) and 35\(3\)](#) of the FOIA.

Section 35 states:

(1) Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to—

(a) the formulation or development of government policy

(3) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).

The purpose of the exemption at section 35(1)(a) is to protect the integrity of the policymaking process, and to prevent disclosures that would undermine this process and result in less robust, well considered or effective policies. In particular, it ensures a safe space for government to consider policy options in private.

Section 35(1)(a) is one of the class-based exemptions in the FOIA, meaning that the information simply has to fall within the class described, regardless of the effect its release may have. Furthermore, the term 'relates to' (the formulation or development of government policy) can be broadly interpreted. This means that the information does not itself have to be

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created as part of the formulation or development of government policy. Any significant link between the information and those activities is sufficient for the exemption to apply.

A public authority's duty to confirm or deny whether it holds information requested by an applicant is imposed by section 1(1)(a) FOIA. A public authority may however exclude itself from complying with section 1(1)(a) on the basis of section 35(3).

The exemptions at section 35 are qualified exemptions. Therefore, HMRC has to consider whether in all the circumstances of the case, the public interest in maintaining the exemption at sections 35(1)(a) and 35(3) outweighs the public interest in the public authority confirming or denying whether it held any information within the scope of the request.

There is clear public interest in security for the government confidential space in which it can evaluate matters internally with candour and free from the pressures of public political debate. The government keeps all aspects of the UK tax system under constant review, meaning that it needs an ongoing safe space within which to consider all aspects of the tax system, including qualifying care relief.

Disclosing whether the government has or has not specifically reviewed the tax arrangements for foster carers or qualifying care relief or disclosing the outcomes of any past reviews or plans for future reviews would threaten the integrity of this safe space for the government to consider all policy options. This safe space allows the government to develop ideas, debate live issues and reach decisions effectively, and enables free and frank discussions about policy issues.

HMRC acknowledges that there is a general public interest in public authorities being open and transparent but would stress that what is in the public interest is not the same as what is of interest to the public.

In light of this, HMRC has decided that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming if the requested information is held.

If you are not satisfied with our reply, you may request a review within 40 working days of receiving this letter by emailing foi.review@hmrc.gov.uk or by writing to our address at the top.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#).

Yours sincerely,

HM Revenue and Customs