



HM Revenue
& Customs

Mr Gary Tinker

By email: request-749502-
3920cdcf@whatdotheyknow.com

Freedom of Information Team
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6 Floor
Central Mail Unit
Newcastle Upon Tyne
NE98 1ZZ

Email foi.request@hmrc.gov.uk

Web www.gov.uk

Date: 19 July 2021
Our ref: IR2021/13381

Dear Mr Tinker

Freedom of Information Act 2000 (FOIA)

Thank you for your email of 14 June, which seeks a review of our original response to your information request.

Having reconsidered your request, I can advise that the department is maintaining its application of sections 36(2)(b(i)) and 36(2)(c) for the reasons previously provided.

As requested, copies of submissions made to the qualified person have been provided as an annex to this letter. The attachment referred to within the emails is a copy of the response issued to you on 25 May 2021.

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

Yours sincerely,

HM Revenue and Customs

From: [REDACTED] on behalf of [Secs_Perm \(HMRC\)](#)
To: [Secs_Perm \(HMRC\)](#)
Cc: [FOI2021/xxxxx@xxxx.xxxxx.xx.xx](#)
Subject: RE: Case FOI2021/08917 - opinion required
Date: 25 May 2021 16:06:37

Thanks [REDACTED] – Angela is still happy to support the exemption.

Thanks,

[REDACTED]
Private Secretary to Jim Harra and Angela MacDonald | [MS Teams](#) | [REDACTED] | [REDACTED]

OFFICIAL

From: [REDACTED] (SOLS)
Sent: 25 May 2021 13:35
To: Secs, Perm (HMRC) <xxxxx.xxxxx@xxxx.xxx.xx>
Cc: [REDACTED] (SOLS) [REDACTED]@hmrc.gov.uk>; FOI2021/xxxxx@xxxx.xxxxx.xx.xx
Subject: RE: Case FOI2021/08917 - opinion required

Good afternoon [REDACTED],

This request is what is referred to by the ICO as a meta request. A meta request is a request for recorded information about the handling of a previous information request. These requests do not have any special status under the FOIA, nor are there any specific exemptions (or exceptions) for this type of request. This means that an authority should treat meta requests in the same way as any other information request. Similarly, there is no specific provision within FOIA to refuse a meta request on the grounds that an exemption was applied in response to the original request. If the information is still exempt at the time of the meta request, then an authority will need to apply the relevant exemption (or exception).

In this instance, the applicant's previous request was refused under section 14(1) FOIA as vexatious. Section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress. It is important to note that section 14(1) can only be applied to the request itself, and not the individual who submits it. An authority cannot, therefore, refuse a request on the grounds that the requester himself is vexatious. Similarly, an authority cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious.

However, the ICO provides that a request which would not normally be regarded as vexatious in isolation, such as the applicant's, may assume that quality once considered in context. An example of this would be where an individual is placing a significant strain on an authority's resources by submitting a long and frequent series of requests, and the most recent request, although not obviously vexatious in itself, is contributing to that aggregated burden.

Information within scope of the meta request included the provision of free and frank advice between [REDACTED] and the [REDACTED] as well as the free and frank exchange of views for the purposes of deliberation. This advice/deliberation considered not only the request at hand but also a wider strategy for responding to what was becoming a large scale vexatious campaign against the department.

Information may be exempt under section 36(2)(b)(i) or (ii) if its disclosure would, or would be likely to inhibit the ability of public authority staff and others to express themselves openly, honestly and completely, or to explore extreme options, when providing advice or giving their views as part of the process of deliberation. The rationale for this is that inhibiting the provision of advice or the exchange of views may impair the quality of decision making by the public authority.

HMRC considers it reasonable for its officials to form wider strategies for protecting departmental resource and considers that disclosure of this information would likely inhibit this process .

As previously stated, the applicant's previous request was refused as vexatious. It had been noted in previous responses to the applicant that their requests exhibited a scattergun approach with no clear intention to obtain specific information. The meta request asks for all correspondence on this matter which in this case includes copies of and references to the information which were identified as within scope of the original request. It is considered that to disclose the previously withheld information would undermine the approach taken to the original request. It was clearly not the intention of the legislation to allow an individual to circumvent appropriate safeguards and it is considered that do so would be prejudicial to the effective conduct of public affairs.

Section 36(2)(c) is concerned with prejudice to an ongoing process rather than the direct result of disclosure – in effect the information is withheld as a matter of principle, the contents in the application of this exemption are irrelevant

Happy to discuss further

[REDACTED]

OFFICIAL

From: [REDACTED] (HMRC Perm Secs Office) [REDACTED] <[REDACTED]@hmrc.gov.uk> **On Behalf Of** Secs, Perm (HMRC)
Sent: 24 May 2021 11:07
To: [REDACTED] (SOLS) [REDACTED] <[REDACTED]@hmrc.gov.uk>; Secs, Perm (HMRC) <perm.secs@hmrc.gov.uk>
Cc: [REDACTED] (SOLS) [REDACTED] <[REDACTED]@hmrc.gov.uk>; FOI2021/08917@hmrc.ecase.co.uk
Subject: RE: Case FOI2021/08917 - opinion required

H [REDACTED],

Angela has said she is content to apply the exemption but, for audit trail purposes, would like a note that outlines the basis of the exemption rules and which clearly states why we believe it applies in this case.

Would that be ok?

Thanks,

[REDACTED]
Private Secretary to Jim Harra and Angela MacDonald | [MS Teams](#) [REDACTED] | [REDACTED]

OFFICIAL

From: [REDACTED] (SOLS)
Sent: 20 May 2021 10:51
To: Secs, Perm (HMRC) <perm.secs@hmrc.gov.uk>
Cc: [REDACTED] (SOLS) [REDACTED] <[REDACTED]@hmrc.gov.uk>; FOI2021/08917@hmrc.ecase.co.uk
Subject: Case FOI2021/08917 - opinion required
Importance: High

Good morning,

I am currently dealing with a series of meta-requests concerning previous FOIA refusals related to the Loan Charge. This applicant has placed numerous requests seeking copies of emails, some of which are currently being considered by the ICO.

I consider it appropriate to apply the exemptions at section 36(2)(b)(i) and 36(2)(c) to some of this material. By virtue of section 36(5) these exemptions can only be used based upon the reasonable opinion of a qualified person – for HMRC this is a Commissioner. Having discussed with Alan Evans, we consider it appropriate to seek Angela's opinion on this matter.

The reasons I consider this exemption appropriate are outlined in the attached document, the sections of the withheld information marked in yellow are those which I advise we apply the exemptions to. At this stage I am seeking a view on whether the exemption is considered to apply and whether the public interest arguments put forward favour maintaining the exemption. The deadline to respond to this request is 1 June.

Happy to discuss

[REDACTED]

OFFICIAL

