

Chief Digital &amp; Information Officer Group

Date: 24th July 2015

Our Ref: 1805/15

Room 2E/08  
100 Parliament Street  
London  
SW1A 2BQ  
Tel 03000 530944

Dear Mr Heath,

**Application under the Freedom of Information Act 2000 (FOIA)**

Thank you for your email dated 28<sup>th</sup> May in which you requested an internal review of the way we dealt with your recent information request.

**Your request**

In a letter dated 5<sup>th</sup> May, you asked for the following information:

*“How many computers are still running Windows XP?  
When do you anticipate you will transition all of these XP machines to a new operating system?  
Which operating system are you switching these machines to?  
What parts of the department are these machines mainly used in?  
How are you securing the XP machines in the interim period before their operating system is replaced?  
Have you taken out an Extended Support deal with Microsoft to update these XP machines?  
What is the cost of this Extended Support deal?  
When does this Extended Support deal expire?”*

**Our response**

HMRC responded on 27<sup>th</sup> May confirming we held the information but that it is exempt under section 31(1)(a) of the FOIA.

**Internal Review**

You emailed on 28<sup>th</sup> May seeking a review of the decision stating:

*I am writing to request an internal review of HMRC's handling of my FOI request 'Computers running Windows XP' - Ref No: 1805/15.*

*Several central government departments have not claimed an exemption under section 31(1) (a) of the FOI Act in response to these question. The Metropolitan Police Service also answered such questions without claiming such an exemption, see <http://motherboard.vice.com/read/londons-metropolitan-police-has-over-35000-computers-running-windows-xp>.*

*Given that this exemption was not relevant in the case of central government departments and one of the UK's largest police forces, I don't believe it to be relevant in the case of the HMRC.*

*Furthermore the argument that this information "could provide information which can be used maliciously in a targeted electronic attack against our systems" does not stand up, as such information would be trivial for anyone with the technical expertise to carry out a hack to find out.*

I have been asked to review your request and its handling. The purpose of the internal review is to provide a fair and thorough review of decisions made under the FOIA.

### Exemptions

#### **Section 31(1)(a)**

Section 31(1)(a) is a prejudice-based exemption, which is engaged where disclosure would, or would be likely to prejudice the prevention or detection of crime. We consider that disclosure of the withheld information would be likely to prejudice our ability to prevent targeted criminal attacks on our IT systems. Releasing information about the ways we ensure our IT estate is secure and the shape of that estate assists criminals in more effectively targeting their malicious activity, against both us and our customers.

In considering the public interest balance, I have taken into account the potential disruption to our services which might result from a targeted criminal attack, as well as the potential wider impact on our customers. We therefore see a very strong public interest in withholding this information under section 31(1)(a) of the FOIA.

In your review request, you have commented on the fact that other public authorities have answered the same questions and not sought to refuse disclosure. You contend that this supports your argument that the information is not covered by the exemption we cited. Clearly each public authority must consider its own position with regard to what information it holds and the potential harm that may result from disclosure. HMRC systems process hundreds of billions of pounds of UK revenue and hold very sensitive customer data and as such there is a strong public interest in avoiding disruption or infiltration of our services.

#### **Section 31(1)(d)**

Having considered our position further, I believe that HMRC should have also cited the s31(1)(d) exemption, which is engaged because disclosure would be likely to prejudice the assessment or collection of tax. As already stated in our original response, any disruption to our IT systems is likely to have a detrimental impact on our ability to carry out our tax assessing and collection functions.

We recognise that there is a public interest in disclosing information about the security of our IT systems so that the assessment and collection of taxes is carried out efficiently and so that the public can have confidence that the information we hold about them is adequately protected. However, we consider there is an overriding public interest in ensuring that we do

not release information which might be used to disrupt our services or otherwise facilitate the criminal use of our customer information. We are also therefore withholding this information under section 31(1)(d), as any successful attack on HMRC systems would be likely to prejudice our ability to assess or collect tax.

### **Appeal process**

If you are not content with the outcome of an internal review, you can complain to the Information Commissioners 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. Or you can email the ICO via the following link:

<https://ico.org.uk/concerns/getting/>

Yours sincerely

Sam Newhouse  
HM Revenue and Customs  
Chief Digital and Information Officer Group