



HM Revenue & Customs

Mr Paul Getty
By email: request-631632-
3716e000@whatdotheyknow.com

Freedom of Information Team
S1715
6 Floor
Central Mail Unit
Newcastle Upon Tyne
NE98 1ZZ

Email foi.request@hmrc.gov.uk

Web www.gov.uk

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Dear Mr Getty

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 5 January, for the following information:

"In the Fol response
https://www.whatdotheyknow.com/request/effect_of_supreme_court_decision HMRC said
"HMRC has issued around 8,000 Follower Notices as a result of the July 2017 Supreme
Court decision."

In the Disguised remuneration: Independent loan charge review report
<https://www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review> published on 20 December 2019, it said "HMRC's evidence to the Review
has been that over 3,200 Follower Notices have been issued in relation to loan schemes,
with the vast majority following the Rangers case."

(i) Please give any documents which detail the difference of 4,800 Follower Notices or an
explanation of the lower figure at the later date. Please explain on what basis the Follower
Notices were issued for if not in relation to loan schemes.

(ii) Please give copies of the relevant evidence given to the independent review which Sir
Amyas Morse would have used to write the above passage in his report, particularly where
the evidence might have enabled Sir Amyas Morse to determine the Follower Notices were
issued "in relation to loan schemes".

We previously wrote to you on 31 January 2020 advising that your request was being
considered with reference to the exemption at section 35(1)(a) FOIA and advising that we
required additional time to consider the public interest in maintaining this exemption.

At the time your request was received, the Government was yet to legislate to implement the
recommendations of the Independent Loan Charge Review, information which was provided
in the course of the review did relate to the formulation or development of government policy
and section 35(1)(a) was engaged.

However as previously stated, the exemptions at section 35 are qualified by the public inter-
est test. Even if an exemption is engaged, departments can only withhold the
information if the public interest in maintaining the exemption outweighs the public interest in
disclosure.

The ICO recognise that there is a public interest in maintaining a safe space for officials to consider policies away from distraction and external interference. The need for a safe space will be strongest when the issue is still live. Once the government has made a decision, a safe space for deliberation will no longer be required and this public interest will carry little weight. The timing of the request will therefore be an important factor.

I have balanced the public interest of maintaining this safe space against the public interest of authorities being transparent and accountable for their actions. I have also taken into account the current timing of this request and the level of information which has already been made available through the Government's published response to the review.

In this case I have judged that the public interest does now favour disclosure of the requested information. The recorded information relevant to your second question has been provided as an annex to this letter.

Outside of the FOIA I can provide the following explanation to your first question:

Sir Amyas Morse in his Loan Charge Review Report stated that HMRC's evidence to the Review had been that over 3,200 Follower Notices (FNs) have been issued in relation to Loan schemes with the vast majority following the Rangers case. Having reviewed the information HMRC provided to the Review, the 3,200 figure was understated and not described correctly. It should have stated:

HMRC issued around 6,800 FNs to customers who used a DR scheme caught by the Loan Charge, all were issued as a result of the Rangers Judgment.

At the time of the review, a minority of DR schemes were not caught by the Loan Charge and it follows that not all FNs issued on the back of the Rangers judgment were to schemes caught by the Loan Charge.

A FN can be given to a person who has used an avoidance scheme that has been shown in another person's litigation to be ineffective. If someone thinks we have issued an FN incorrectly they can make a representation to us. They may also wish to continue their tax dispute through litigation, though this would be at the risk of incurring a FN penalty which would be appealable to the Tax Tribunal.

You may find the information in HMRC's recent publication useful:

<http://www.gov.uk/government/publications/independent-loan-charge-review-summary-of-evidence>

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gov.uk, or by writing to the address at the top right-hand side of this letter.

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

Yours sincerely,

Freedom of Information Team