

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 November 2015

**Public Authority:** HM Revenue and Customs  
**Address:** 100 Parliament Street  
London  
SW1A 2BQ

#### Decision (including any steps ordered)

---

1. The complainant submitted a request to the public authority for the names and direct telephone numbers of managers and team leaders within the Benefits and Credit team. The public authority withheld the information in reliance on the exemptions at sections 31(1)(g) (by extension, section 31(2)(a)) and 40(2) FOIA.
2. The Commissioner's decision is that the public authority was entitled to withhold the information described as "the disputed information" in the body of this notice in reliance on section 31(1)(g) and section 31(2)(a) by extension. He however finds the public authority in breach of section 10(1) FOIA for failing to respond to the request within 20 working days.
3. No steps required.

#### Request and response

---

4. The complainant submitted a request for information to the public authority on 31 July 2014 in the following terms:

*'Please provide me with an Organisation Structure Chart for the Benefits & Credits department showing; The name of each department and sub department (with a description of their function) within the Benefits and Credits Section. I am in particular interested in the Tax Credits and Child Benefit department. A hierarchy list for each department showing the names of managers and team leaders including their direct telephone*

*number and what is their role and to whom they report. I am not asking for names and telephone number of admin staff. The information Commissioner has already ruled in an earlier case between myself and HMRC in FS50456138 that names and direct telephone numbers of managers must be released.'*

5. In its response on 28 October 2014, the public authority referred the complainant to the published high level organisation structure chart for the Benefits and Credit (B&C) department. Included in the chart were the names of the Director General B&C and the Head of B&C Operations Group together with a generic email address for both.
6. However, relying on the exemptions at sections 31(1)(g) and 40(2), the public authority withheld the following information which was not included in the published organisation chart: names and contact details (including direct telephone numbers) of managers and lower level leaders of operational teams in the B&C department, together with their titles and roles.
7. On 6 November 2014 the complainant submitted a request for an internal review in which he challenged the public authority's reliance on sections 31(1)(g) and 40(2) to withhold the information described above.
8. On 27 April 2015 the public authority wrote to the complainant with details of the outcome of the review. The authority upheld the application of the exemptions originally cited.

### **Scope of the case**

---

9. The complainant contacted the Commissioner on 10 May 2015 to complain about the way his request for information had been handled. He specifically challenged the public authority's reliance on the exemptions at sections 31(1)(g) and 40(2). Some of the complainant's submissions in support of his position have been reproduced further below.
10. The scope of the Commissioner's investigation therefore was to determine whether the public authority was entitled to rely on the exemptions at sections 31(1)(g) and 40(2) to withhold the names and direct telephone numbers of managers and lower level leaders of operational teams in the B&C department, together with their titles and roles ("the disputed information").

## Reasons for decision

---

### Section 31(1)(g)

11. Section 31(1)(g) states:

*'Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice the exercise by any public authority of its functions for any of the purposes specified in subsection (2).'*

12. The relevant purpose according to the public authority is contained in section 31(2)(a) which states:

*'The purposes referred to in subsection (1)(g).....are- the purpose of ascertaining whether any person has failed to comply with the law.'*

13. The exemption is qualified by a public interest test as set out in section 2(2)(b) FOIA.

### Complainant's submissions

14. The complainant's submissions to the Commissioner are reproduced below.

15. *'The test that applies to this exemption relates to the public body not being able to ascertain whether any person has failed to comply with the law. HMRC has not put forward any credible argument to support its reliance on Section 31(2)(a). Its stance that case workers will become distracted by misdirected telephone calls is not the test to be applied in deciding if the aforementioned exemption is engaged or not. If information is released HMRC will still be able to ascertain if someone has failed to comply with the law.'*

16. *'.....It is submitted that HMRC's B&C department is running very poorly as noted by the Upper Tribunal on numerous occasions and more recently in JR v Her Majesty's Revenue and Customs (TC) Judge Wikeley makes the following comments concerning the Tax Credits Department "another fine tax credits mess" and at para 11. "This is not the first time that the Upper Tribunal has had cause to make adverse comment on the standard of HMRC appeals responses filed with the First-tier Tribunal. The simple fact is that, as regards this aspect of work, if HMRC were an educational establishment it would now be in special measures."'*

17. In his email to the public authority requesting an internal review, the complainant also made the following submissions:

18. *'You cite that the system might become dysfunctional if the information is released, however you have not provided any evidence to support your stance – 2012 you provided me with the names and direct dial numbers of three managers- you have not stated that these managers have suffered any of the difficulties that you anticipate, if the information presently requested is to be released.'*
19. *'The information I require is not for public distribution rather to aid my work as an independent Welfare Rights Advisor.'*

*Public authority's submissions*

20. The public authority's submissions are summarised below.
21. The public authority is set up to deal with contact from customers via its contact centres, necessary for the identification and verification of callers. Disclosure of the disputed information would result in customers trying to contact the operational teams directly to discuss their particular concerns. However, customers would be unlikely to get through to the person dealing with their case directly and caseworkers would be prevented from dealing with the cases allocated to them because of these misdirected calls. The potential indirect costs resulting from large scale use of these contact details would severely compromise the public authority's business operation.
22. Unmanaged access to the public authority's telephone network could result in substantial deterioration in customer service. Customers could also potentially incur extra cost through misdirected calls as they would need to call alternative numbers.
23. Furthermore, there is likely to be a significant increase in letters and emails addressed to the wrong officials and teams. This would adversely affect the public authority's ability to manage customers' written correspondence efficiently, resulting in increased administration costs and significantly hindering the authority's ability to operate the relevant compliance work effectively. The public authority explained that once the name of an official is known, then generally the email address can be deduced because of the standard format used for departmental email addresses.
24. There is also the potential for the disputed information to be used by scammers and those involved in cybercrime to give an air of authenticity to fraudulent communications aimed at HMRC customers.
25. This request can be distinguished from the request in FS50456138 in which the Commissioner rejected the public authority's reliance on the exemption at section 40(2) and ordered the disclosure of the names and contact telephone numbers of the managers of three specified Tax

Credit teams. The applicant is seeking the names and contact telephone numbers for a greater number of officials this time hence the reliance on section 31(2)(a).

26. The public authority also explained that since 2013, officials (except for those working in its contact centres) have telephone numbers that stay with them even when their roles change. Therefore, it is likely that officials who have changed roles would still be receiving phone calls in relation to an area in which they no longer have responsibility.
27. For all of the above reasons, disclosing the disputed information would be likely to prejudice the public authority's ability to ascertain whether any person has failed to comply with their legal obligations in relation to benefits and tax credits.
28. With regards to the balance of the public interest, the public authority acknowledged the public interest in transparency and in specifically providing an insight into how teams are organised within the authority.
29. However, it concluded that there was a strong public interest in being able to enforce the law properly so that payments are only made to those to who have a proper entitlement. Anything that would be likely to reduce the authority's ability to manage the workloads of caseworkers would have a detrimental effect on operational performance and that would not be in the public interest.
30. Furthermore, any details provided are likely to become out of date as individuals change role or leave the department, making any benefits in disclosure redundant.

#### *Commissioner's findings*

31. The Commissioner has considered all of the arguments submitted by both the complainant and the public authority before reaching his decision, even where he has not felt it necessary to address a particular argument further in the body of this notice.
32. The Commissioner notes that the disputed information does not just comprise of the names and the direct telephone numbers of managers and team leaders. It extends, as the applicant requested, to a description of their roles. However, the Commissioner considers that the request can only be properly satisfied by providing information which includes the names and direct telephone numbers. This is because it is clear from some of the complainant's exchanges with the public authority that he wants to be able to contact these officials directly. Therefore, disclosing their titles and roles only for instance would not satisfy his need or indeed the terms of his request and would in any event lack contextual relevance.

33. The Commissioner accepts that disclosing the disputed information could result in customers and/or their representatives contacting the operational teams directly to discuss their particular claims rather than going through the contact centres. He accepts that this would be an inevitable consequence given the area of work that the B&C department is responsible for. Administering means tested benefits requires a lot of input from potential claimants and those already in receipt who might from time to time need to declare a change in circumstances. Customers would not be reluctant to use contact details which they consider would enable them discuss their claims directly with managers or team leaders. The Commissioner however shares the public authority's view that it would not be practical for customers to place their calls directly to B&C managers and team leaders who have overall responsibility for all the cases allocated to their team and not just individual cases. It is also important that calls from customers and indeed the general public are directed to the contact centres for identity and verification purposes first before they are forwarded to the relevant team.
34. The Commissioner has therefore attached significant weight to the submission that a structured and managed access to the B&C telephone network is vital to the public authority's ability to function effectively and efficiently in that area of its compliance activity. Without managed access, investigations could become chaotic and lack a clear line of responsibility for actions undertaken at different stages. Clearly, that would be likely to affect the public authority's ability to ascertain compliance in relation to benefits and tax credits.
35. It is important to note that customers are not denied access by telephone and/or correspondence to managers and team leaders in the B&C department. Rather, the process has to be managed in order not to compromise the department's ability to investigate cases efficiently.
36. The Commissioner considers the facts and circumstances in case FS50456138 distinguishable from those in this case. As mentioned, he ordered the disclosure of the names and direct telephone numbers of three managers in that case after rejecting the public authority's reliance on section 40(2). The prejudicial effect envisaged in this case is directly linked to the number of officials affected by the request which is greater than the three in FS50456138. Furthermore, the only issue the Commissioner had to determine in that case was whether personal data could be disclosed. Given the numbers involved in this case, the public authority understandably relied on an exemption which best reflects the concerns that the authority has in disclosing a significantly larger number of names and direct telephone numbers of managers and team leaders in the B&C department under FOIA. The fact that the complainant does not intend to publish the disputed information is

immaterial as disclosure under FOIA effectively places the disputed information in the public domain.

37. In view of the above reasons, the Commissioner finds that disclosing the disputed information would be likely to prejudice the public authority's ability to ascertain whether any person has failed to comply with the law. The exemption at section 31(1)(g) and by extension, section 31(2)(a), was therefore correctly engaged.

### **Public interest test**

38. The Commissioner next considered whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosure.
39. There is a general public interest in disclosure for openness and transparency. It is in the public interest for customers to be able to identify and have access to officials who have oversight over their benefits and tax credits claims.
40. However, the issue is not one of a denial of access. Rather, it is to do with managing that access so that the public authority is able to function effectively for the benefit of all. The Commissioner shares the view that there is a strong public interest in the authority being able to enforce the law properly so that payments are only made to those to who have a proper entitlement. There is also a significant public interest in the public authority being able to carry out its function of ascertaining compliance more generally in relation to benefits and tax credits efficiently.
41. Whilst the Commissioner accepts that there could be a public interest in increasing transparency for the purposes of accountability in light of the Upper Tribunal's comments, he does not accept that the disputed information is likely to improve the standard of the public authority's appeals to the First-Tier Tribunal. He also does not accept that alleged underperformance by managers should be challenged by disclosing their contact details in public or indeed the details of all managers and team leaders in the B&C department.
42. The Commissioner therefore finds that, on balance, the public interest in maintaining the exemption outweighs the public interest in disclosing the disputed information.
43. In light of his decision, the Commissioner did not consider the applicability of section 40(2).

## **Procedural matters**

44. Section 10(1) FOIA requires a public authority to provide its response to a request for information within 20 working days.
45. The Commissioner finds the public authority in breach of section 10(1) for failing to provide its response within the statutory time limit.

## **Other matters**

---

46. As a matter of good practice, in general the Commissioner expects internal reviews to take no longer than 20 working days to complete and certainly no longer than 40 working days apart from in exceptional circumstances. The public authority took over five months to complete its review.
47. The public authority has explained to the Commissioner that the delays in responding to the request were due to a change in personnel in the relevant business area, together with resource pressures on the Freedom of Information team at the time. The authority also explained that the complainant had asked it to consider providing some limited information within the scope of the request to him outside of FOIA. This was given separate consideration as part of the internal review process before it was decided that to do so would give the complainant an unfair advantage over other claimants and their agents. However, this further delayed the completion of the review.
48. Whilst the Commissioner is not unsympathetic to the public authority's explanations, he does not approve of the length of time it took for the internal review to be completed. Regardless of the circumstances, five months seems an inordinate amount of time to complete the review for a request of this nature especially in view of the fact it had taken the authority well over 40 working days to issue its initial response.

## Right of appeal

---

49. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 123 4504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

50. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
51. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**