

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 May 2016

Public Authority: Her Majesty's Revenue and Customs
Address: 100 Parliament Street
London
SW1A 2BQ

Decision (including any steps ordered)

1. The complainant has requested information from Her Majesty's Revenue and Customs (HMRC) about a 'manual' referred to by HMRC in response to an earlier request. The request was dated 5 December 2015 and at the time of this notice HMRC has yet to respond to the request for information.
2. The Commissioner's decision is that HMRC breached section 10 of the FOIA in that it has failed to provide a substantive response to the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request under the FOIA by either complying with section 1(1) or – to the extent that requested information is exempt from disclosure - issuing a valid refusal notice, including the outcome of any public interest considerations.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 5 December 2015, the complainant wrote to HMRC and requested information in the following terms:

"Thank you for your letter of 29 September 2015. I have now decided how I wish to proceed. I am making two new requests.

Please could you provide me with the following recorded information:

(1) A copy of the table of contents for "the manual" you refer to on the second page of the letter.

(2) A copy of the section on "Practice" for the manual you refer to on the second page of the letter."

6. HMRC wrote to the complainant on 7 December 2015 and advised him that his requests would be logged as two new requests.
7. The complainant wrote to HMRC on 10 January 2016 and again on 16 January 2016 asking for an update on his requests.
8. On 18 January 2016, HMRC wrote to the complainant advising that the delay had been due to the absence of key personnel over Christmas but that it expected to finalise its response within ten working days.
9. In a letter dated 4 February 2016, the complainant requested a timetable for HMRC to provide a response to his requests.
10. On 12 February 2016, in the absence of any further response from HMRC, the complainant wrote to HMRC and asked for an internal review to be conducted. This request was reiterated on 21 February 2016 when the complainant wrote again to HMRC.
11. In a further letter to HMRC on 1 March 2016, the complainant requested a response to his request setting out his acceptance that any internal review would take longer to respond to.
12. On 15 March 2016 the complainant asked for a response to his letter dated 1 March 2016. On the same date, HMRC advised in writing that the information within scope was being examined and that a response was expected by the end of that week.
13. With no response issued, the complainant wrote again to HMRC on 8 April 2016 asking for disclosure of the requested information.

Scope of the case

14. The complainant contacted the Commissioner on 18 April 2016 to complain about the way his request for information had been handled.
15. The Commissioner spoke to a representative of HMRC on 27 April 2016 and asked that a substantive response be issued to the complainant within 10 working days. On 12 May 2016 the complainant advised the Commissioner's office that he had not received any response from HMRC.
16. As yet HMRC has failed to issue a substantive response to the request.

Reasons for decision

17. Section 1(1) of FOIA states that:

1(1) Any person making a request to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

18. Section 8(1) of FOIA states:

8(1) In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

19. The Commissioner considers that the request in question fulfilled these criteria, and therefore constituted a valid request for recorded information under the FOIA.
20. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
21. From the information provided to the Commissioner it is evident that HMRC did not respond substantively to the complainant within the statutory timeframe in respect of this request.

22. The Commissioner's decision is that HMRC did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. As it has still not responded to the request, HMRC is now formally required by the Commissioner to respond to the request of 5 December 2015.

Right of appeal

23. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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
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Wilmslow
Cheshire
SK9 5AF