

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 26 January 2010

Public Authority: HM Revenue and Customs
Address: 4th Floor
100 Parliament Street
London
SW1A 2BQ

Summary

The complainant submitted a request to the HM Revenue and Customs ("HMRC") for information about cases where HMRC had agreed to receive less tax than had been assessed for the previous tax year. A response to the request was not provided within twenty working days. The Commissioner's decision is that in failing to confirm or deny that it held information covered by the request and to provide it to the complainant within the statutory time frame for compliance HMRC breached sections 1(1)(a) and (b) of the Act. HMRC also breached section 10(1) of the Act in failing to comply with section 1(1) within twenty working days.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 28 August 2008 the complainant requested the following information:

"1) The number of commercial and personal tax payers whom HMRC has agreed to receive less tax from than has been assessed for the most recent whole tax year for which figures are available.

- 2) The amounts of money concerned with reference to 1) above. This can be presented in a 'banded' format if it makes it easier for you."
3. The Information Commissioner's Office received a complaint on 20 October 2009 and contacted HMRC requesting that they provide a response to the complainant within 10 working days.
4. On 2 December 2009, the HMRC provided a response to the complainant, disclosing some of the information requested and stating that other information was not held.

The Investigation

Scope of the case

5. On 21 November 2009, the complainant contacted the Commissioner again to complain about the way his request for information had been handled by HMRC. The investigation focuses solely on the time taken to provide a response to the request, rather than the content of the response itself.

Chronology

6. The complainant made the request on 28 August 2008.
7. The Information Commissioner's Officer received a complaint about HMRC's lack of response on 20 October 2009.
8. The Home Office sent a response to the complainant on 2 December 2009.

Analysis

Procedural Requirements

Section 1

Section 1(1) of the Act states that:

"Any person making a request for information 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."*

The Commissioner considers that HMRC has breached section 1(1)(a) and section 1(1)(b) of the Act as it failed to confirm and deny that it held the requested

information and provide information to the complainant within the statutory time for compliance.

Section 10

9. Section 10(1) of the Act states that:

“Subject to subsections (2) and (3), 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.”

The Commissioner considers that HMRC has breached section 10(1) of the Act as it failed to respond to the request within twenty working days following the date of receipt.

The Decision

10. HM Revenues and Customs did not comply with sections 1(1)(a) and 1(1)(b) of the Act as it failed to confirm or deny that it held requested information and provide it to the complainant within the statutory time for compliance.
11. HM Revenues and Customs has breached section 10(1) of the Act in failing to comply with sections 1(1)(a) and 1(1)(b) within twenty working days following receipt of the request.

Steps Required

12. The Commissioner requires no steps to be taken.

Right of Appeal

13. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 26th day of January 2010

Signed

**Anne Jones
Assistant Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

General Right of Access

Section 1(1) provides that -

“Any person making a request for information 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.”

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”