

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 18 December 2013

**Public Authority:** HM Revenue & Customs  
**Address:** 1C/25  
100 Parliament Street  
London  
SW1A 2BQ

#### **Decision (including any steps ordered)**

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1. The complainant requested information about corporate liquidations. The Commissioner's decision is that the public authority did not deal with the request in accordance with the FOIA. This is because the public authority provided its response outside the statutory 20 working days and it has therefore breached section 10(1) of the FOIA.
2. A response has now been provided citing section 12(1) of the FOIA to refuse the requested information. However the Commissioner requires the public authority to provide advice and assistance to the complainant with a view to helping him refine his request and bring it within the appropriate limit.
3. 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**

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4. On 10 June 2013, the complainant wrote to HMRC and requested the following:  
*'Can you please confirm that when dealing with corporate liquidations the revenue has a policy of neutrality.'*

*Over the previous 12 months....on how many occasions either for creditors voluntary liquidations or compulsory liquidations has the revenue nominated or voted for a partner or partners of the firm, [name and full address redacted] Chartered Accountants and Business Advisors Essex.*

*How many other firms have the revenue voted for in the same period?'*

5. On 14 June 2013 HMRC acknowledged the request and on 2 July 2013 they asked for clarification on a point which was answered on 5 July 2013.

## **Scope of the case**

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6. The complainant contacted the Commissioner to complain about the lack of a response on 13 August 2013.
7. After the Commissioner's intervention, HMRC provided a response to the information request on 27 November 2013 citing section 12(1) of the FOIA to refuse the requested information.
8. HMRC also stated that it would provide advice to the complainant within the week in accordance with section 16 of the FOIA to consider whether there is scope to narrow the request so that it falls within the fees limit, but at the time of drafting the decision notice, no help has been offered.
9. Where a public authority refuses a request under section 12 it is obliged under section 16 of FOIA to provide advice and assistance with a view to assisting the applicant to refine his request so as to bring it within the appropriate limit. The Commissioner will now consider whether HMRC has complied with that duty.

## **Reasons for decision**

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### **Section 10**

10. Section 10 of the FOIA provides that a public authority should respond to a request for information within 20 working days. The Commissioner has found a breach in this case because HMRC did not respond within 20 working days.

### **Section 16**

11. In responding to the complainant in its letter of 27 November 2013, HMRC had said it would provide advice to the complainant within the

week in accordance with section 16 of the FOIA to consider whether there is scope to narrow the request so that it falls within the fees limit, but as yet there has been no advice offered.

12. Section 16(1) states that it shall be the duty of a public authority to provide advice and assistance, so far as it is reasonable to expect the authority to do so, to a person who has made a request for information.
13. Section 16(2) provides that a public authority which has provided advice and assistance in accordance with the code of practice produced under section 45 of FOIA, (Section 45 Code of Practice) will be taken to have complied with its duty under section 16(1). The section 45 code is issued by the Secretary of State for Justice and sets out the practice that public authorities are expected to follow when complying with their duties under FOIA. Where a request has been refused under section 12 the code advises a public authority to provide an indication of what if any information could be provided within the cost ceiling. The Commissioner considers that this includes providing the applicant with information which will enable him to make a refined, narrower request. It is not sufficient to simply advise the applicant to make a narrower request.
14. In light of this the Commissioner finds that HMRC failed to provide the complainant with appropriate advice and assistance. The Commissioner requires HMRC to explain what information on the number of firms used across the various business areas within HMRC it can readily provide. It is also required to provide further advice aimed at helping him narrow the scope of the request. Although HMRC have offered to consider where the request could be narrowed, at the time of drafting the decision notice, no help has been provided.
15. Therefore, the Commissioner finds that there is a breach of section 16 of the FOIA.

## Right of appeal

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16. 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 1234504

Fax: 0116 249 4253

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

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

17. 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.
18. 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 .....**

**Pamela Clements**  
**Group Manager, Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**