



Central Policy

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Date 27 January 2012
Our ref FOI 2411/11
Your ref

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Dear Mr Jones,

I am writing with further reference to your request dated 6 October 2011 set out below:

I read your monthly list of procurement costs exceeding £25,000 but have never seen the cost of using Moira Stuart to publicise Self Assessment deadlines.

- 1. Is this because the total payments to Moira Stuart in a year are less than £25,000?; or*
- 2. Where is it detailed in the lists?*

On 17 October 2011, HMRC responded as follows:

All marketing campaigns for HMRC are handled by the Central Office of Information (COI), which then invoices HMRC accordingly. Any invoices received from COI that exceed £25,000 are published under the new transparency arrangements. The invoicing of all costs relating to marketing campaigns is the responsibility of COI, therefore we do not hold the information you requested.

You were advised to make a new request directly to the COI, which you subsequently did. You were then advised by the COI that they were only holding information on our behalf and therefore they would only be prepared to provide the information to HMRC so that we could then make a decision as to whether it could be released.

HMRC Further Response

Having discussed this matter with Mr Morgan of the COI, I have established that the COI's position is that they hold the information on our behalf and therefore, they do not strictly hold it themselves. Under s3(2)(a) of the FOIA, the information is **not held** by COI because it is held on behalf of another person (HMRC). Conversely, under s3(2)(b) of the FOIA, it is **held** by HMRC because it is held by COI on our behalf and they can supply us with that information so that we can consider whether it can be released.



<http://www.legislation.gov.uk/ukpga/2000/36/section/3>

In order to resolve matters, we are therefore providing a response on the basis that the information which you originally requested is held by HMRC. I apologise for the delay which has resulted while this has been reconsidered.

Although I can confirm that the information is held by HMRC, I am not prepared to release it to you because it is exempt information under the FOIA.

The cost to HMRC of using Moira Stuart to publicise SA deadlines is information related to an identifiable individual and constitutes personal data for the purposes of the Data Protection Act 1998. Such information is exempt from disclosure under section 40(2) of the Freedom of Information Act 2000 (FOIA), by virtue of s40(3)(a)(i). This part of the s40 exemption is an absolute exemption and I am not therefore required to consider any public interest arguments for and against disclosure.

Section 40 of the Freedom of Information Act provides that:

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if:
(a) it constitutes personal data which do not fall within subsection (1), and
(b) either the first or the second condition below is satisfied.

(3) The first condition is:

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene:

(i) any of the data protection principles,

I consider that disclosure of this information would contravene the first data protection principle, which states that

"Personal data shall be processed fairly and lawfully".

HMRC holds payment information relating to identifiable individuals who are contracted to provide services to the department.

The first data protection principle requires that personal information is processed fairly; processing includes disclosure. For information to be processed fairly, individuals should be aware of the purposes for which their personal information may be used or disclosed and should be made aware of any "non obvious" purposes. Individuals have a reasonable expectation that their personal information will not be disclosed wider than is necessary.

I also consider that the information you have requested is exempt from disclosure under s43(2) of the FOIA. This exemption is engaged where release of information could prejudice commercial interests. This exemption is a qualified exemption which means that I am required to consider the balance of the public interest in deciding whether to release the information. Since I am relying on the absolute exemption of s40(2), I have not at present set out arguments in relation to the use of s43(2).

Appeals Process

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 1C/25, 100 Parliament Street London SW1A 2BQ or email foi.review@hmrc.gsi.gov.uk. You must request a review within 2 months of the date of this

letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of an internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

Teresa Chance