

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

### **Decision notice**

**Date:** 29 May 2024

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

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

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1. The complainant requested from HM Revenue and Customs (HMRC) information relating to the raw data and calculation logic that underpins its guidance.
2. The Commissioner's decision is that HMRC failed to issue a refusal notice within the statutory timeframe and therefore, HMRC breached section 17(5) (refusing a request) of FOIA. The Commissioner does not require further steps as a result of this decision.

#### **Request and response**

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3. On 15 November 2023 the complainant wrote to HMRC and requested information in the following terms:

"Please can you send me a copy of the raw data, and calculation logic, that underpins <https://www.tax.service.gov.uk/guidance/...>

In particular I'd like to understand how the dates in text such as "You can expect a reply by 11 December 2023. This date is an estimate and may change." and "We are currently processing requests received on 17 AUGUST 2023." is generated.

By raw data I mean your historic record of the processing and received dates for different kinds of requests that would generate the "We are currently processing ..." text as well as any inputs into the calculation logic for the "You can expect a reply by " estimates.

By calculation logic I mean the way in which those estimates are calculated, which could be a detailed description that enables those estimates to be reproduced when combined with the raw data, or the actual computer code that generates it.

4. On 4 December 2023 HMRC responded and provided some information in relation to the request.
5. On 17 December 2023 the complainant asked for an internal review.
6. On 18 February 2024 the complainant contacted the Commissioner to complain about HMRC's handling of their request.
7. On 14 March 2024 HMRC provided its review response. It said it should have refused the request under section 12(1) (cost of compliance) of FOIA.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 14 March 2024 to complain about the way their request for information had been handled.
9. Although HMRC had subsequently provided its review outcome, the complainant accepted the conclusion but as HMRC claimed an exemption several months late, they asked to have the response formally recorded.

### **Reasons for decision**

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#### **Section 17 – refusal of request**

10. Section 17(5) of FOIA states that if a public authority is relying on a claim that section 12 or 14 applies it must, within the time for complying with the request, give the applicant a notice stating that fact.
11. The Commissioner notes that the request was received on 15 November 2023 and HMRC refused the request under section 12(1) of FOIA on 14 March 2024. In failing to provide its refusal notice within 20 working days, HMRC breached section 17(5) of FOIA.

## Other matters

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12. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 Code of Practice<sup>1</sup> sets out, in general terms, the procedure that should be followed.
13. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances..
14. In this case the complainant requested an internal review on 17 December 2023 and HMRC provided its review response on 14 March 2024, over 60 working days later. The Commissioner reminds HMRC of the Code of Practice and urges it to respond to requests in a timely manner.

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-45-code-of-practice-request-handling/>

## Right of appeal

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15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

16. 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.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Susan Duffy**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**