

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

### **Decision notice**

**Date:** 31 October 2022

**Public Authority:** HM Revenue & Customs  
**Address:** 100 Parliament St  
London  
SW1A 2BQ

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

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1. The complainant has requested information in respect of UK exporters fined for unlicensed strategic exports between March and November 2021. HMRC relied on section 44(1) of FOIA (statutory prohibition on disclosure) to withhold the information.
2. The Commissioner's decision is that HMRC correctly relied upon section 44 of FOIA.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 11 January 2022, the complainant requested the following information from HMRC:

"...all information about the UK exporters fined for unlicensed strategic exports between March and November 2021.

Please send me all the information possible about each individual case on the list linked to above. Who was the exporter? What was exported? Where was it exported to? Who was the importer? Any other detail would be welcome.

If it's not possible to include certain parts of this information – such as the importer – please don't reject the entire FOI. Please just send all the information that is possible to send."

5. HMRC refused this request citing section 44 (prohibitions on disclosure) FOIA on the basis that disclosure would breach section 23(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA). It upheld this decision in its internal review dated 18 February 2022 adding that it would also breach section 18(1) of CRCA.

## Reasons for decision

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6. The following analysis sets out why the Commissioner has concluded that HMRC was entitled to rely on section 44 of FOIA in this particular case.
7. Section 44 of FOIA allows a public authority to withhold information whose disclosure, otherwise than under FOIA, would breach another piece of legislation.
8. The Commissioner has previously agreed that disclosure of information relating to the revenue and customs of a particular person (where the term "person" refers not just to living individuals but also companies or charitable trusts) will breach CRCA in circumstances where the person is identifiable, either directly from the information or indirectly from other sources.<sup>1</sup>
9. In its refusal notice, HMRC confirmed that the "information is held in connection with our functions as we enforce violations of The Export Control Order 2008. Second, the request seeks specific details of compound settlements, and that information would identify the entities concerned".
10. The Commissioner is therefore satisfied that, on the facts of the case, disclosure of the withheld information would be contrary to the CRCA and therefore HMRC was entitled to rely on section 44 to withhold the information.
11. As section 44 is an absolute exemption, the Commissioner is not required to take into account any public interest factors or the identity of the individual requesting the information.

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<sup>1</sup> See for example: <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617419/fs50895430.pdf>

## Right of appeal

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12. 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)

13. 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.
14. 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 .....**

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