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<http://www.qltr.gov.uk>

Our ref: GE/6/16

Date: 21/02/2017

Dear

**FREEDOM OF INFORMATION REQUEST
OWNERLESS FUNDS HELD BY QLTR FROM 2010**

Thank you for your request dated 9 February under the Freedom of Information (Scotland) Act 2002 (FOISA). You request the following:

"I would like the following information with regard firstly to all ownerless funds held by the QLTR from 2010 until Present day.

I would like to know the name of the last known owner, the last known address of the last known owner and the value and nature of the asset held by the QLTR.

Secondly I would like to know the following regarding monies held in relation to a company that has been dissolved and are Bona Vacantia. For this I request the name of Company that has been dissolved, the name of the organisation/person(s) entitled to the monies and the amount held. Again I would like this from 2010 until present day."

It appears to me from your email request that the information you are seeking is around sums received by the QLTR in respect of what we term *bona vacantia* which covers the following:

- the property (including any cash balances) of a company or similar body immediately prior to its dissolution
- the property (including any cash balances) of a person who can no longer be traced
- the property (including any cash balances) which have been previously owned but in respect of which the former owner can no longer ascertained.

It did not appear to me that your request was seeking information regarding an *ultimus haeres* estate (a person has died leaving no Will and no known and traced relatives). If however I have misunderstood that details can be found on the QLTR's website regarding:

- all such potential estates reported to the QLTR but where administration has not yet commenced
- all such potential estates undergoing administration by the QLTR
- all such potential estates where the QLTR has completed administration and which remain available for claim (including the net estate available for claim)

Since 1 April 2010 (our Case Management System ("CMS") allocates reference numbers to cases in relation to the commencement of a financial, and not the calendar, year) we have opened in excess of 22,600 new *bona vacantia* ("BV") cases.

Our CMS is not however designed to automatically extract information for a printout of cases to identify whether a case achieved a receipt in respect of the matter raised with us (for which the case was opened) and if so the amount of that receipt, what it relates to (in particular whether it would be funds due to the missing owner if they reappeared – such as a dissolved company being restored to the company register – or whether it was in respect of an admin fee we had charged or was reimbursing to us an outlay we had incurred), the net amount which might be available for claim in respect of that case were the missing owner to reappear and whether we have already received and paid a claim in respect of the matter (for example where the company has been restored, or the funds received were due to an individual who could not be traced by the original fund holder but has since reappeared).

For each case, that information could only be identified by an analysis of the records held within each case within the CMS.

Similarly, in respect of the property/funds of an individual in respect of which we have received an approach, information regarding the individual's address would require an interrogation of the records for that case to ascertain what information was held. However to the extent that the name and the address of an individual comprise personal data we consider that the exemption under section 38(1)(b) of FOISA would apply as the information is the personal data of a third party and disclosing it would contravene the data protection principles in Schedule 1 to the Data Protection Act 1998.

We would be happy to consider providing you with a print out of the BV cases from 2010 to date. However, for the reason above, that would not provide any information whether there is a sum of money due to the missing owner in respect of whom the case relates nor the amount of any such sum. We would also redact personal data from that print out for the reason above.

I am not sure however, against the above explanation, whether that is information you would wish to seek from us and perhaps you could let us know if you would find that of any assistance to you – you will appreciate that arranging a printout of even that information against the number of cases arising is a not inconsiderable task.

We would not however be able to provide information regarding the monies and amount held for each case, and whether any of that would be available for claim if the missing owner reappeared, as the costs of locating, retrieving, analysing and providing

the information would exceed the upper cost limit of £600 against the staff time this would require for the exercise. Under section 12 of FOISA public authorities are not required to comply with a request for information if the authority estimates that the cost of complying would exceed the upper cost limit, which is currently set at £600 by Regulations under section 12.

You may, however, wish to consider reducing the scope of your request in order that the costs can be brought below £600. You might for example confine your request to cases relating to dissolved companies for the case types of balance of funds (used where we receive a balance from a 3rd party which is usually the credit on a dissolved company's bank account), and dealings with heritable property, for a shorter period of time (say cases opened in a particular 3 month period).

You ask in your email in respect of dissolved company cases the organisation/persons entitled to the monies. Under the companies legislation, the QLTR's obligation to account is to the company if it is restored to the Companies Register – see now section 1034 of the Companies Act 2006. I would have to leave you to seek your own advice regarding the mechanisms for a company's restoration and the period within which that may be sought.

The QLTR's policies are on his website and indicate how he might consider an approach from former members of a dissolved company. I think it only fair to mention against the policies for discretionary payments however that if it appears to us that there might be concerted action being undertaken to seek to achieve discretionary payments in respect of dissolved companies then it is likely that this policy (which is entirely at the discretion of the QLTR) would have to be reconsidered. The policy is intended to help former members, against the costs of restoring a company, who have made and discovered a mistake when a company is dissolved – typically they have forgotten to remove funds from the bank account prior to dissolution and when they approach the bank shortly after dissolution the bank can no longer operate the account to allow them to withdraw the funds as the company has ceased to exist.

I also mention that heritable properties that have been raised with the QLTR (under reservation of all his options in respect of such property) and which have not yet been dealt with can also be found on the QLTR's website. Details regarding the titles in respect of such properties (to identify with whom the last title to the property sat) can be sought from Registers of Scotland (who are responsible for the relevant property registers in Scotland – the Land Register and the Sasine Register).

If you are dissatisfied with the way in which your request has been handled, you do have the right to ask us to review it. Your request should be made within 40 working days of receipt of this letter and we will reply within 20 working days of receipt. If you require a review of our decision to be carried out, please write to The QLTR, Scottish Government Building, Victoria Quay, 1B-Bridge, Edinburgh, EH6 6QQ, or for requests sent by e-mail to coqltr@copfs.gsi.gov.uk.

The review will be undertaken by staff not involved in the original decision making process.

If our decision is unchanged following a review and you remain dissatisfied with this, there is a right of appeal to the Scottish Information Commissioner under section 47(1) of FOISA.

The Scottish Information Commissioner's contact details are as follows:

Online Appeal Service: www.itspublicknowledge.info/Appeal

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610

Fax: 01334 464611

Email: enquiries@itspublicknowledge.info

Should you subsequently wish to appeal against the Commissioner's decision on such an appeal, there is a right of appeal to the Court of Session on a point of law only.

As a courtesy I mention that I am leaving QLTR this Friday but contact can be made to this office through the general email account you used for your original approach.