

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 March 2024

Public Authority: Valuations Office Agency
Address: 10 South Colonnade
Canary Wharf
London E14 4PU

Decision (including any steps ordered)

1. The Commissioner's decision is that the Valuations Office Agency (VOA) is entitled to withhold information about demolished properties under section 44(1)(a) of FOIA as there's a prohibition on its disclosure. It's not necessary for VOA to take any corrective steps.

Request and response

2. The complainant made the following information request to VOA on 8 September 2023:

"I want to identify any residential properties (not commercial) that have been demolished in the last five years (possibly to make way for new development) i.e. residential properties that no longer exist - for the following Local Authority areas:

Portsmouth City Council
Fareham Borough Council
Gosport Borough Council
Winchester City Council
East Hampshire District Council
Chichester District Council
Havant Borough Council

Arun District Council

Therefore, could you please provide me with a list of all residential properties that have been demolished in the last five years for the above Local Authority areas.”

3. VOA withheld the requested information under section 44(1)(a) of FOIA. It said that section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005 prevented disclosure.
4. The complainant requested an internal review on 22 October 2023. They said that VOA had interpreted their request as seeking a list of domestic properties that have been deleted from the Council Tax List in the specified local councils in the last five years due to demolition. They said that that was VOA’s interpretation and not theirs; they hadn’t mentioned Council Tax in their request and had no interest in it. The complainant said that their interest is in identifying properties that have been demolished in the last five years.
5. In its internal review, VOA maintained its reliance on section 44(1)(a), confirming that section 23(1)(b) of CRCA prohibited it from disclosing the information.

Reasons for decision

6. This reasoning focusses on whether VOA is entitled to withhold the requested information under section 44(1) of FOIA.
7. Section 44(1)(a) of FOIA says that information is exempt information if its disclosure (otherwise than under FOIA) by the public authority holding it is prohibited by or under any enactment.
8. As noted, in its response to the request VOA advised that section 23(1) of the CRCA prohibited it from disclosing the requested information.
9. In its internal review, VOA noted that the complainant had queried its interpretation of the request. It confirmed that it had interpreted the request as seeking a list of domestic properties that have been deleted from the Council Tax List, in the specified local authorities in the last five years, due to demolition.
10. VOA explained that one of its responsibilities is to assess the bands of domestic (residential) properties for Council Tax purposes. The information it holds about properties that have been demolished, therefore relates to its duty to compile and maintain an accurate Council

Tax List. VOA confirmed that it doesn't hold any other information about the demolition of residential properties.

11. Addressing the complainant's point that they're interested in residential properties that have been demolished, rather than those that have been deleted from the Council Tax List, VOA explained that the data it holds about properties deleted from the Council Tax list specifies the reason for deletion. It therefore appeared to be relevant to the request. One of the reasons for deletion noted is when a property has been demolished and is no longer considered a dwelling. VOA advised the complainant that local authorities may hold further information about the demolition of residential properties, as they're responsible for planning matters.
12. VOA went on to confirm that it holds information in its Council Tax database falling in scope of the request. However, VOA advised it can't disclose the information as it would enable a person's identity to be worked out from the addresses provided. As such, section 44(1)(a) of FOIA applies. This is because the addresses could be used in combination with other publicly available sources of information such as the electoral register, the Land Registry and local authority planning portals to identify a person.
13. VOA discussed the Commissioner's guidance on whether releasing information could result in a person being identified when considering the Data Protection Act 2018, rather than the CRCA.
14. It then set out the regulatory framework within which it operates, as follows:
 - VOA is an Executive Agency of HMRC and collects and holds data relating to individual properties to undertake its functions. This includes the property address details in scope of the request.
 - Section 10 of the CRCA sets out the functions of the 'Valuation Office'. Schedule 1 identifies the provision of 'Valuation Lists in relation to Council Tax' and 'the valuation of property' as former Inland Revenue functions transferred to HMRC.
 - VOA staff are officers of HMRC and are prohibited from disclosing information relating to VOA functions under section 18(1) of the CRCA. The information the complainant has requested is held for VOA functions and this means that section 18(1) of the CRCA applies.
 - When section 18(1) of the CRCA applies, section 23(1) of the CRCA then specifies that under section 44(1)(a) of the FOIA, VOA must not disclose information when it would either:

(a) specify the identity of the 'person' to whom the information relates, or

(b) enable the identity of such a person 'to be deduced.'

- Section 23(1)(b) of the CRCA includes when a 'person' can be deduced from property data such as an address. The term 'person' means legal entities such as a company as well as individuals.
 - Section 23 of the CRCA was amended by section 19(4) of the Borders, Citizenship, and Immigration Act 2009, to state that the VOA must disregard any permissive rights set out in sections 18(2) or (3) of the CRCA when considering an FOIA request.
 - Section 19 of the CRCA makes it a criminal offence for any VOA member of staff to disclose any 'person's' information under the FOIA.
15. VOA also directed the complainant to examples of the Commissioner's decisions in two similar cases: FS50563305¹ and FS50538771². In both, the Commissioner had found that the section 44 exemption was engaged.
16. The Commissioner has considered the complainant's arguments but, based on VOA's detailed internal review response and his decisions in numerous similar cases the Commissioner is satisfied that the requested information is prohibited from disclosure under section 23(1) of the CRCA. This is because the VOA holds the information in order to fulfil one of its functions and because disclosing it would enable the identity of a person or persons to be deduced.
17. The complainant has noted that they're not interest in Council Tax matters and properties that have been deleted from the Council Tax List; they're only interested in properties that have been demolished.

¹ https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1043447/fs_50563305.pdf

² https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1042114/fs_50538771.pdf

18. However, VOA only holds information about properties that have been demolished by virtue of one of its functions; the function it has to maintain and provide Valuation Lists in relation to Council Tax. In order to maintain that List, VOA records whether a property has been demolished. Disclosing the information VOA about properties that have been demolished that it holds to fulfil its functions is prohibited under the CRCA as it would be possible to identify a person or persons from the disclosed information.
19. The Commissioner's decision is that VOA correctly applied section 44(1)(a) of FOIA to the disputed information. Section 44 is an absolute exemption which means it's not subject to the public interest test.

Right of appeal

20. 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

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

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF