

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 November 2024

Public Authority: Valuation Office Agency
(Executive Agency of HM Revenue & Customs)

Address: 10 South Collonade
Canary Wharf
London
E14 4PU

Complainant: Roger Byatt
Address: rbyatt1@aol.com

Decision (including any steps ordered)

1. The complainant requested survey sheets for a number of specific properties. The Valuation Office Agency (the VOA) refused the request under section 44(1)(a) (statutory prohibition to disclosure) of the FOIA.
2. The Commissioner's decision is that the VOA is correct to refuse to disclose the information under section 44(1)(a) of the FOIA.
3. The Commissioner does not require any steps.

Request and response

4. On 5 March 2024 the complainant made the following information request to the VOA:

"Please could you supply the survey sheets for the following houses all in [addresses redacted] of Richmond Upon Thames. Postcodes [redacted] or [redacted]."

5. The VOA responded on 25 March 2024 and stated that the information requested was exempt under section 44(1)(a) of the FOIA.

6. The complainant requested an internal review on 26 March 2024 and the VOA provided its internal review on 25 April 2024 upholding its initial response.

Scope of the case

7. The complainant contacted the Commissioner on 29 April 2024 disputing the VOA's refusal of the request.
8. The scope of the case is for the Commissioner to determine whether the VOA correctly refused the request under section 44(1)(a) of the FOIA.

Reasons for decision

Section 44 – prohibitions on disclosure

9. Section 44 of the FOIA states that:

“(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it –

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court.”

Is disclosure of the requested information prohibited by or under any enactment

10. Information is exempt under section 44(1)(a) if its disclosure would breach any of the following:

- primary legislation (an Act of Parliament); or
- secondary legislation (a Statutory Instrument).

11. The relevant legislation in this case is the Commissioners for Revenue and Customs Act 2005 (CRCA)¹.

¹ <https://www.legislation.gov.uk/ukpga/2005/11/contents>

12. Section 18(1) of the CRCA states:

“Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs.”

Section 23 CRCA states amongst other things:

“(1) Revenue and Customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000.....if its disclosure

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

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

(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000.”

13. The Commissioner’s position on the interaction of section 44 of the FOIA and the CRCA is well established via published decision notices. The VOA has referenced two particular decision notices in its internal review response, IC-136138-L6H7² and FS50538771³.

14. In the first decision notice, the request was for the valuation history for a specific property for the period 1985 to 1995. The second decision notice related to a request for a list of certain types of properties in a specific postcode, including the address, council tax band and other information about the properties.

15. The Commissioner upheld the VOA’s position in both cases referred to above in respect of section 44(1)(a) of the FOIA.

The VOA’s position

16. The VOA has confirmed that it holds some survey sheets for the properties listed in the request. The information is held for Council Tax

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022521/ic-136138-l6h7.pdf>

³ https://ico.org.uk/media/action-weve-taken/decision-notices/2014/1042114/fs_50538771.pdf

purposes, one of the functions of the VOA. The VOA pointed out that the information is about a number of properties, which have been identified by their addresses. The VOA stated that there are a number of ways of linking addresses to owners through cross referencing with other information such as HM Land Registry records, electoral rolls, local library resources and other online information.

17. Historically the VOA advised that it "recorded some information about properties on 'Domestic Survey Records (DSRs)', and some of these are still held". It explained to the complainant that, if the owner or occupier of a property is seeking access to a DSR they are able to make a Subject Access Request under the Data Protection Act 2018.
18. In relation to the complainant's contention that some information relevant to the request is publicly available to view, the VOA explained that it is unable to take into account whether or not any of the information is already publicly available. VOA pointed out that:

"Where information is made available to view by VOA, it is provided in accordance with legislation and in fulfilment of a VOA function. Where a publication is by another public body, it is because they are not subject to the same legislative constraints as the VOA. As explained above, we cannot take into account permissive legislation when determining what can be disclosed under the FOIA".

The complainant's position

19. The complainant contends that the information requested relates to the historical rateable value of the properties, which was superseded by Council Tax. They stated that the 1965 rateable values (RVS), which were in the public domain, have not been used by HMRC or local authorities for over 50 years, since they were superseded by the 1973 RVs.
20. The complainant has also argued that it would not be possible to identify an individual through disclosure of historical information about properties comprising of an address and rateable value. They also pointed out that they are acting on behalf of the owners of all the properties listed in the request.
21. The complainant has alleged that some information relating to their request is publicly available.
22. Finally the complainant pointed out that the information they are seeking access to is legally required by current legislation, in this case the Leasehold Reform Act 1967. They have received information from the Leasehold Advisory Service stating that:

"In effect the rateable value and other financial limits have now been ended as a qualifying condition to acquire the freehold under the Leasehold Reform Act 1967. However, this rateable value test is still important in determining the basis of valuation of the purchase price for acquiring the freehold."

The Commissioner's position

23. The Commissioner's remit is to consider whether a request for information has been handled in accordance with the FOIA.
24. Whilst he has considered the points raised by the complainant, which were set out in some detail in their submissions, the Commissioner considers that the CRCA prohibits the disclosure of the information and that this prohibition is not subject to the availability of any additional information which may enable identification.
25. The Commissioner accepts that the requested information is held in connection with a function of the VOA as specified in section 18(1) of the CRCA. He also considers that the VOA has adequately explained that disclosure of the survey sheets would enable the identity of a person to be deduced, when combined with other information from publicly available sources, such as the electoral register and other online sources. He therefore does not accept the complainant's position that the information does not relate to identifiable individuals. Where section 18(1) of the CRCA applies, section 23 of the same Act sets out that the information will be exempt under section 44(1)(a) of the FOIA, as detailed at paragraph 12 above.
26. The Commissioner notes the complainant's point that some of the requested information may have been, or still is publicly available. However, the Commissioner also notes that the VOA said this cannot be taken into account when considering disclosure under the FOIA. It also said, the information in scope of each request must be considered solely against the requirement of the Act. The Commissioner acknowledges the statutory framework within which the VOA operates and its application to the request.
27. Section 44(1)(a) of the FOIA is an absolute exemption, this means that there is no requirement to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the requested information.
28. It is the Commissioner's position that the VOA has satisfactorily established the criteria set out in the CRCA at sections 18 and 23 are clearly met in this case. In conclusion, the Commissioner's decision is that the VOA was entitled to rely on section 44(1)(a) of FOIA to withhold the requested information.

Right of appeal

29. 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

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanne Edwards
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