

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 March 2025

Public Authority: Doncaster Metropolitan Borough Council
Address: Civic Office
Waterdale
Doncaster
South Yorkshire
DN1 3BU

Decision (including any steps ordered)

1. The complainant has requested information about business rates. Doncaster Metropolitan Borough Council ("the Council") withheld some of the requested information under section 31(1)(a) (Law enforcement) of FOIA.
2. The Commissioner's decision is that the Council correctly withheld the information under section 31(1)(a).
3. The Commissioner does not require further steps.

Request and response

4. On 28 May 2024, the complainant wrote to the Council and requested information in the following terms:
 - "1. Property Reference
 2. Property Address
 3. Rateable Value
 4. Property Description
 5. Billing or Correspondence Address
 6. Liability Start Date
 7. Current entitlement to any Reliefs or Discounts (excluding details of empty property reliefs)

I am particularly interested in properties with a rateable value above £50,000, as this should significantly reduce the number of records needing review. Additionally, please exclude records pertaining to sole traders or partnerships to avoid the need for extracting personal data.”

5. The Council responded on 24 June 2024. In respect of parts 1-4 of the request, it stated that the information was already reasonably accessible to the complainant and was therefore withheld under the exemption provided by section 21 (Information accessible to the applicant by other means) of FOIA. In respect of parts 5-7 of the request, it stated that the information was withheld under the exemption provided by section 31(1)(a).
6. Following an internal review the Council wrote to the complainant on 12 August 2024. It maintained its original response but provided additional detail on how to access that information withheld under section 21.

Scope of the case

7. The complainant contacted the Commissioner on 20 September 2024 to complain about the way their request for information had been handled, and specifically that the Council was not entitled to withhold information under section 31(1)(a).
8. The scope of this case and of the following analysis is whether the Council was entitled to rely upon section 31(1)(a) to withhold information.

Reasons for decision

Section 31(1) – Law enforcement

9. Section 31(1)(a) states:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice–

(a) the prevention or detection of crime.”
10. Section 31 is a prejudice based exemption and is subject to the public interest test. This means that not only does the information have to prejudice one of the purposes listed, but that it can only be withheld if

the public interest in the maintenance of the exemption outweighs the public interest in disclosure.

11. In order to be engaged, the following criteria must be met:

- The actual harm which the public authority alleges would, or would be likely to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption (in this case, the prevention or detection of crime);
- The public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the alleged resultant prejudice must be real, actual or of substance; and,
- It is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – that is, 'would be likely' to result in prejudice or 'would' result in prejudice.

The applicable interests

12. The Commissioner must first consider whether the arguments provided by the Council relate to the relevant applicable interests, namely the prevention and detection of crime.
13. The information withheld under this exemption are the billing or correspondence address, liability start date, and current entitlement to any reliefs or discounts (excluding details of empty property reliefs).
14. The Council argues that the disclosure of the information, which it would need to provide as a dataset in conjunction with that information (sought by parts 1-4 of the request) which is already accessible, would be likely to enable criminal activity and thus prejudice the prevention or detection of crime.
15. The Council considers that there are a number of different areas where the risk of crime is likely to increase if the information is disclosed, such as:
 - Physical property crime or civil disorder (for example arson, vandalism, or squatting)
 - Fraud targeting empty property
 - Fraud against the Council, using the business details
 - Fraud against other public bodies using the business details

- Fraud against third parties (such as customers, creditors or suppliers) using the business details
16. The Council has elaborated that, whilst the request specifically excludes vacant properties, such properties could be inferred from their omission from the disclosed information.
 17. The Council has also elaborated that its Business Rates team have experienced, at first hand, calls from rating agents claiming to act on behalf of ratepayers, which has then been discovered to be false. The team have also dealt with situations where ratepayers have specifically asked them to not provide information about their business rates to rating agents due to their concerns at the information being misused.
 18. The Commissioner has considered requests for business rates data in a range of decision notices. Recent examples include IC-206412-N9H1¹ and IC-171054-H6Z6². In those decisions the Commissioner was satisfied that the disclosure of similar information to that here would prejudice the prevention or detection of crime, and that the information was therefore exempt under section 31(1)(a).
 19. Having considered the above, the Commissioner accepts that the potential prejudice described by the Council clearly relates to the interests which the exemption contained at section 31(1)(a) FOIA is designed to protect. Therefore, section 31(1)(a) is engaged.

Public interest test

20. Section 31(1) is a qualified exemption and is subject to the public interest test set out in section 2(2)(b) of FOIA. The Commissioner has therefore considered whether in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the withheld information.

Public interest arguments in favour of disclosure

21. There is a general public interest in promoting transparency and accountability, which in turn promotes public engagement and understanding by showing how public authorities are delivering their responsibilities.

¹ <https://ico.org.uk/media2/migrated/decision-notices/4024967/ic-206412-n9h1.pdf>

² <https://ico.org.uk/media2/migrated/decision-notices/4022981/ic-171054-h6z6.pdf>

22. In this case, the Council acknowledges that disclosure of the information would specifically inform the public about commercial properties in their area.
23. The Commissioner also recognises that disclosure of the information would allow individuals with knowledge of the local area to submit corrections or concern about a given property to the Council, which would assist in ensuring that correct taxes are paid.

Public interest arguments in favour of maintaining the exemption

24. The Council has argued that there is an inherent strong public interest in preventing crime; tackling crime incurs public expense, and it is in the public interest that such expense is not unnecessarily increased by helping crime to be undertaken more easily.
25. The Council further argues that, besides the financial cost of fraud and other crime, there are also indirect consequences, such as on the neighbouring properties to those vacant, which may also be impacted by increased crime and civil disorder.

Balance of the public interest arguments

26. In relation to the public interest, the Commissioner recognises that there is a general public interest in openness and transparency in relation to the way in which public funds are collected and used.
27. In this case, the Commissioner understands from the correspondence between the complainant and Council, that the information is sought for business research. However, whilst the Commissioner has noted this, he considers that largely represents a private, rather than public interest, and therefore carries limited weight³.
28. Furthermore, the Commissioner is not convinced that there is particularly strong public interest that would be served by the disclosure of the information, as he also noted in the above cited decision notices.
29. In contrast to this, the Commissioner considers that there is a very strong public interest in protecting the law enforcement capabilities of public authorities.

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/the-public-interest-test/#pit5>

30. When considering the public interest in preventing crime, it is important to take account of the consequences that can reasonably be anticipated and to which the Council has already identified as occurring.
31. The Commissioner has also referred to the decision notices cited above, in which he considered similar information to that here, and found that the public interest test supported the exemption being maintained. He considers that the conclusions reached in those cases are transposable to this case.
32. Having considered the arguments on the balance of the public interest test, the Commissioner concludes that maintaining the exemption at section 31(1)(a) outweighs the arguments in favour of disclosure.
33. The Commissioner is therefore satisfied that the exemption provided by section 31(1)(a) is engaged, and that the public interest test supports the exemption being maintained. His conclusion is that the Council was entitled to withhold the information under section 31(1)(a) of FOIA.

Right of appeal

34. 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

35. 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.
36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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