



Ministry of Housing,
Communities &
Local Government

**Ministry of Housing, Communities & Local
Government**

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Jon Knowles
Via email

Date: **27 November 2018**

Dear Mr Knowles,

Environmental Information Regulations 2004 - 3949822

Thank you for your request for information which we received on 30 October 2018 and processed under the Environmental Information Regulations 2004.

Your request was:

I am formally requesting under FoI laws access to EPCs filed between December 2016 and July 2018. I have been monitoring the updated publication of this important data and I can see no reason why they should be nearly two years out of date. I should have expected to be able to see this data on <http://opendatacommunities.org> prior to now. The fact that I cannot do so is hindering my important research into pressing housing issues within the capital.

I am interested in seeing data for ALL London Boroughs for the period. It will not be enough for you to claim that it is too expensive or difficult to provide me with this data. I am not asking or expecting you to do anything other than publish the data for the relevant period in the usual way.

If there is some especial reason which explains this omission then I would like to know what it is and then I can decide whether to appeal to the Office of the Information Commissioner.

I can confirm that we hold this information, but I am withholding it as explained below. The information requested falls within the exception to disclosure at regulation 12(5)(c) of the Environmental Information Regulations as its disclosure would adversely affect intellectual property rights. There are restrictions on the use of address data held on the registers. Address level data held on the registers includes material in which intellectual property rights are owned by the Royal Mail Group Limited. MHCLG has published address level data on a publicly accessible open data communities website with the consent of the Royal Mail Group Limited, which reserves all its copyright, database rights, trade marks and other intellectual property rights. In effect, this means that Royal Mail has agreed that address level data can be published if this information is protected by its copyright notice.

Factors in favour of disclosing

Information falling within this exception must still be disclosed unless the public interest served by doing so is outweighed by that served by maintaining the exception. Factors in favour of disclosure There will always be some general public interest in disclosure to promote transparency and accountability of public authorities. In this case the Department has published a large amount of data from Energy Performance Certificates (EPCs) for domestic buildings on the Open Data Communities (ODC) website, this published data includes the total useful floor area of the building. Please use the below link to access the website:

<https://epc.opendatacommunities.org/login>

Please note that the Department is only responsible for implementing the requirements of the EU Directive on the energy performance of buildings in England and Wales.

Factors in favour of withholding

When considering the public interest in maintaining the exception, the Department has taken account of the harm caused to it due to Royal Mail Group Limited considering that their rights would be threatened. In this instance they may no longer be prepared to provide information to the Department, this would damage the Departments ability to provide EPC address level data. IP rights exist to reward either the creativity or significant work or both that goes into producing the material. They give the right holder control over how the information is used, and by whom. It follows that the harm must result from the right holder losing that control. It is considered that, in all the circumstances of the case, the public interest served by maintaining the exception outweighs the public interest served by disclosing the information at this time.

Complaints procedure

If you are unhappy with this response, we will review it and report back to you. (This is called an internal review.) If you want us to do this, let us know by return email within two months of receiving this response. You can also ask by letter addressed to:

Ministry of Housing, Communities and Local Government
Knowledge and Information Access Team
1st Floor NW, Fry Building
2 Marsham Street
London, SW1P 4DF

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

James Young
FOI Business Partner