



Valuation Office Agency

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Freedom of Information Team

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To: John Hanlon

Email: [request-686550-
ce21e7b1@whatdotheyknow.com](mailto:request-686550-ce21e7b1@whatdotheyknow.com)

Email: foi@voa.gsi.gov.uk

Our Reference: 11804135.1/CEO

Date: 16 September 2020

Dear Mr Hanlon,

Freedom of Information Act (FOIA) 2000 VOA Ref: 11804135.1/CEO

Thank you for your request for information under the FOIA received on 21 August 2020. You provided an address and asked for the following information to be disclosed to you.

Your request for information under the FOIA:

"Records show on your website that Liverpool used to generate in excess of £50,000 per year in business rates. Then in sometime around 2017 these rates were removed as the building was in disrepair. Therefore, can you please supply the following information:

- 1. Who classed this property as being in disrepair?*
- 2. Did anybody from Liverpool City Council ever contact your Office to have the business rates removed under their any powers they have?*
- 3. If the answer is yes to question 3, please provide their name?*
- 4. Please provide all correspondence/emails between Liverpool City Council and your Office over ?"*

Response to your request:

Section 44(2) of the FOIA says we cannot confirm whether or not we hold the information when doing so is not allowed by another Act.

This exemption applies when even confirming whether information in scope of the request is held or not, may in itself disclose something about a 'person'. ('Person' may include an individual or a legal entity such as a company). Applying this exemption removes the obligation which is set out in section 1(1)(a) to confirm or deny .

The other Act that applies here is section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005. Under this Act, requested information, **if it were held**, cannot be provided when the following statements are true:

The information where held, is for a function of HM Revenue and Customs (HMRC) - The VOA is an Executive Agency of HMRC. Our functions are set out in sections 7 and 10 of CRCA. The information you have requested relates to the Rating List, one of the functions of the VOA.

The information, where held, relates to a person who is identified - Identification can be direct or by deduction, and the term 'person' includes legal entities such as companies, trusts and charities, as well as individuals.

I include an appendix which sets out the legislation in full.

You may ask for a review of the handling of your request, within 2 months of the date of this letter, by emailing us at: foi@voa.gsi.gov.uk. At present, due to the outbreak of COVID-19, we are unable to receive hardcopy post. To assist our review, please set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of our review, you have the right to apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO won't make a decision unless we have reviewed our handling of your request. You may apply directly to them by email during the Covid-19 disruption at: casework@ico.org.uk

Yours sincerely

Freedom of Information Team
Valuation Office Agency

Appendix

Freedom of Information Act, 2000 (request)

<http://www.legislation.gov.uk/ukpga/2000/36/contents>

Section 44 Prohibitions on disclosure

- (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 EU obligation, or
 - (c) would constitute or be punishable as a contempt of court
- (2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1) (a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

Commissioners for Revenue and Customs Act (CRCA) 2005

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

Section 23 CRCA

- (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 (c. 36) (prohibitions on disclosure) 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**.

'Person' in this context includes both living persons and legal entities like a company (please see paragraph 110 of the explanatory notes to the CRCA). Also as a link can be made from an address to a person with other information in the public domain this is captured by section 23(1)(b) of the CRCA.

Further section 19(4) of the Borders, Citizenship and Immigration Act (BCIA) 2009 amended section 23 of the CRCA ²and states that we must disregard any permissive rights when considering a FOIA request.

Sections 18(1) and 23 (as amended) of the CRCA taken together, removes information about anyone (or their property) from the right of access under FOIA as the Valuation Office Agency's duty of confidentiality therefore extends to all its customers.

This is explained in our Publication Scheme under, "*Information we will not disclose under the Freedom of Information Act 2000 (FOI)*".

'Release of information under FOI is release to the world. Public authorities are not allowed to take account of the identity of the person making the request, or their motives, when deciding what information will be disclosed in response to an FOI request.

To carry out its functions the Valuation Office Agency (as part of HM Revenue and Customs HMRC) holds confidential customer information including information on properties. When HMRC was created in April 2005, Parliament decided that any information held for an HMRC function that identifies a 'person', (including legal entities such as limited companies), or which would enable their identity to be deduced, is exempt from disclosure under the FOI regime. The provision is set out in Section 23 of the Commissioners for Revenue and Customs Act (2005) and applies even if the requestor is an individual asking for information we hold about them, or a director asking for our information about their company.'

Schedule 1 of the Interpretation Act 1978 - <http://www.legislation.gov.uk/ukpga/1978/30/schedule/>

¹ Section 18(1) of the CRCA states that, '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.'

² Here is a link <http://www.legislation.gov.uk/ukpga/2009/11/section/19>