



DARLINGTON
Borough Council

OPERATIONS GROUP
Law & Governance Division
Town Hall, Darlington DL1 5QT

Mr Gavin Chait

request-915064-

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(01325) 406777

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2nd December 2022

Our ref: DBC-1841-22

Your ref:

Please ask for: Richie Sanderson

Document Name:

Dear Mr Chait

Freedom of Information Act 2000 - Information Request

Your request for information, received, has now been considered. Below is an outline of your request with our responses added in the attached spreadsheet.

In terms of the Freedom of Information Act of 2000, and subject to section 40(2) on personal data, could you please provide me with your local authority's complete and most-recently updated list of all business (non-residential) property rates data, including the following fields:

- Billing Authority Property Reference Code (linking the property to the public VOA database reference)***
- Firm's Trading Name (i.e. property occupant or ratepayer)***
- Full Property Address (Number, Street, Postal Code, Town)***
- Occupation / Vacancy status***
- Date of Occupation / Vacancy***
- Actual annual rates charged (in Pounds) and/or categories of reliefs/exemptions granted***

In some cases, we have not provided details of the liable party as they are an individual, not a business, as such, we believe that this information is personal data as defined by the Data Protection Act 2018 and that its disclosure would be in breach of the first data protection principle. As a result, we are refusing this element of

your request under section 40(2) of the Freedom of Information Act 2000. A full refusal notice is appended to this letter.

If you are dissatisfied with the handling of your request or would like to request an internal review of our response, please write to:

Complaints and Information Governance Manager
Darlington Borough Council
Neighbourhood Services and Resources Group
Town Hall
Darlington
DL1 5QT
E-mail: xxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxx.xxx.xx

You can also obtain further information from the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113
Website: www.ico.org.uk

Yours sincerely

Richie Sanderson
Complaints & Information Governance Assistant

Refusal Notice – Section 40(2) Freedom of Information Act 2000

Section 40(2) of the Freedom of Information Act 2000 (the FOIA) provides that:

- (2) *Any information to which a request for information relates is also exempt information if—*
 - (a) *it constitutes personal data which does not fall within subsection (1), and*
 - (b) *the first, second or third condition below is satisfied.*
- (3A) *The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*
 - (a) *would contravene any of the data protection principles...*

Is the information ‘personal data’?

Section 3 of the Data Protection Act 2018 (the DPA) states:

- (2) *““Personal data” means any information relating to an identified or identifiable living individual (subject to subsection (14)(c)).*

- (3) *“Identifiable living individual” means a living individual who can be identified, directly or indirectly, in particular by reference to—*
- (a) an identifier such as a name, an identification number, location data or an online identifier, or*
 - (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.”*

In this case the data relates to the liability of an individual for National Non-Domestic Rates.

Accordingly, we believe that the information does constitute personal data.

Would disclosure breach any of the data protection principles?

The second test under section 40(2) is whether the disclosure of the information would breach any of the data protection principles. The first data protection principle states:

- (1) *“Personal data shall be:*
- (a) processed lawfully, fairly and in a transparent manner in relation to the data subject (“lawfulness, fairness and transparency)”*

In this context, ‘processing’ is construed broadly and includes disclosure of the information requested. As the information withheld meets the definition of personal data, it can only be disclosed if to do so would be lawful, fair and transparent in relation to the data subject and in accordance with the conditions set out in Article 6 of the GDPR.

Article 6 conditions

In this instance, the sixth condition is the only potentially relevant condition from Article 6. The condition states:

“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests of fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.”

To ensure that this condition is met, we are required to balance your interests in having access to the information against the privacy interests of the third party. In this case, we believe that information provided by the ratepayer is provided for the purposes of collection of taxation and there is a reasonable expectation that the information will not be placed in the public domain, as such, disclosure of this information would not be considered fair.

As we have determined that disclosure of the information withheld does not satisfy the sixth condition, we believe that the Council would be in breach of the first data protection principle if the information were to be disclosed.

As a result of the above, we have determined that the information you have requested is exempt from disclosure under section 40(2) of the FOIA. You have the right to appeal against this decision. Details of how to do this are provided in the letter that accompanies this refusal notice.