

KIRKLEES COUNCIL**REFUSAL NOTICE****SECTION 17 FREEDOM OF INFORMATION ACT 2000****REQUEST FOR INFORMATION CONCERNING VACANT PROPERTIES****1. Request**

The request was received on 03/08/2021 and is for:

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 residential properties owned by companies or commercial concerns that have been vacant for the past 24 months or more, including the following fields:

- Council Tax Band
- Name of owner/ Company owner (please note, no personal data required)
- Full Property Address (Number, Street, Postal Code, Town)
- Date of Vacancy
- Actual annual rates charged (in Pounds) and/or categories of reliefs/exemptions granted

If you are unable to provide an absolute 'Vacancy' status, please provide the Exemptions and / or Reliefs that a particular property may be receiving.

The Council holds the information requested but for the reasons set out below considers that one of the exemptions to disclosure within the Freedom of Information Act applies and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The Council has had regard to the Information Commissioner's Guidance:

- The Guide to Freedom of Information
- Law enforcement (section 31) Freedom of Information Act
- The public interest test Freedom of Information Act

2. Reasons

Section 1 of the Freedom of Information Act 2000 (Fol Act) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or

deny whether the information specified in the request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

For information, applications made under the FoI Act are totally independent from any other process operated by a public authority and any disclosure of recorded information under this Act is deemed as a disclosure to the world and cannot be a disclosure of information to any single individual. This means that once information has been released under the Act it becomes a matter of public record and we have to make that information available to any member of the public who may wish to view it. This means that the Council must consider the consequences of disclosure to the world at large, and not just the impact of providing the material to the applicant and as such must consider whether the information requested is suitable for disclosure to anyone and everyone.

Section 31 is the exemption for law enforcement and states:

(1) 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,*
- (b) the apprehension or prosecution of offenders,*
- (c) the administration of justice,*
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,*
- (e) the operation of the immigration controls,*
- (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,*
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),*
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or*
- (i) any inquiry held under the **M1** Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.*

Section 31 is a qualified exemption, which means that in deciding whether or not to withhold information the Council is required to take account of the public interest, as sent out in section 2 of the Act and to consider whether or not it is more in the public interest to withhold or disclose the information.

The public interest in not disclosing the information is

I am refusing to provide the addresses under Section 31 (a) – the prevention or detection of crime. I feel that the information either would or would be likely to occur if the information was disclosed and relates to the interests that the exemption is designed to protect.

I feel that the disclosure of a list of empty properties would provide those intent on committing crimes associated with such properties an easy way to identify them and

therefore there is a casual relationship between disclosure of the withheld information and the prevention of crime.

West Yorkshire Ranks as third highest in the country for Burglary, domestic burglary and total crime. Please find the following link to 'police recorded crime by offence group and police area, English regions and Wales, number of offences up to ending June 2020 – Office for National Statistics.

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/policeforceareadatatables>

Up to March 2021, residential properties in the West Yorkshire area were subject to over 56,000 crimes, including

- 10,643 Residential Burglary
- 16,374 other burglary offences (sheds, gardens etc)
- 26,385 cases of criminal damage and arson

Therefore for these reasons we feel we are correct to refuse to provide the addresses requested.

In coming to a decision to maintain the exemption I have considered the following public interest factors in favour of disclosing the information:

1. The public interest in promoting accountability and transparency in the exercise by a public authority of its actions and decisions in these matters.
2. promoting accountability and transparency in the spending of public money.

Against that I have balanced the following public interest factors in favour of maintaining the exemption:

1. Contributing to the sum of criminal knowledge.
2. Prevention of criminal activity in relation to the Council's systems and information.
3. Maintaining the security of personal information, including sensitive personal information, relating to individuals.
4. Prevention of criminal activity in relation to these addresses, eg fraud, theft

On balance the Council does not consider that the public interest outweighs the need to protect against the risk of criminal acts being committed if the Council released this information at this time.

In coming to this decision, the Council is not implying anything whatsoever about the applicant's own reasons for making your request and it is hoped the applicant will understand that if we disclosed a first time we would have no grounds for refusing any other applicant.

Under section 2(2)(b) of the Freedom of Information Act it is considered by the council that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The request for disclosure is therefore refused.

3. Review

If you are not content with the handling of your request, you have the right to ask for an internal review. Requests for internal reviews should be submitted **within 2 months of the date of receipt of the response to your original request** and should be addressed to the Monitoring Officer, 1st Floor, Civic Centre 3, Market Street, Huddersfield HD1 2EY. Alternatively, you can send an email to: monitoring.officer@kirklees.gov.uk.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of any review you have the right under section 50 of the 2000 Act to apply to the Information Commissioner for a decision as to whether your request for information has been dealt with in accordance with the requirements of the Act. The Information Commissioner's website is at www.ico.org.uk and gives more information about the role and duties of the Commissioner. The ICO telephone helpline on 0303 123 1113 or 01625 545745 is available between 9am and 5pm, Monday to Friday.

04/08/2021