



Valuation Office Agency

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Freedom of Information Team
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To: John Stormonth-Darling

Email: foi@voa.gsi.gov.uk

Email: request-683430-53a0fbd1@whatdotheyknow.com

Our Reference: 11803985.1/CEO

Date: 3 September 2020

Dear Mr Stormonth-Darling,

Freedom of Information Act (FOIA) 2000 **VOA Ref: 11803985.1/CEO**

Thank you for your request for information under the FOIA received on 10 August 2020.

Your request:

"I would very much like to obtain access to the following dataset: "VOA Non domestic rating - addresses, floor areas, characteristics and attributes of properties" (2016 version or newer) for a research project I am presently undertaking. Anything else you can suggest with up-to-date information about of how much office (and other commercial) space exists in the country would also be handy."

Response to your request:

As required by section 1(1)(a) of the Act I confirm that information is held in scope of your request.

- Non-domestic rating floor space statistics are published. Here is a link;
<https://www.gov.uk/government/collections/non-domestic-rating-business-floorspace-statistics>

This link is provided in accordance with section 21 of the FOIA which removes the requirement to provide information in response to a request if that information is already reasonably accessible to you.

- Non-domestic rating addresses, floor areas, characteristics and attributes cannot be disclosed.

Section 44(1)(a) of the FOIA states we cannot provide this information because another Act prevents disclosure. Section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005 prevents disclosure in this case.

Section 44 is an absolute exemption which does not require consideration of a public interest test. This means we cannot consider any benefit to the general public, including yourself that disclosing the information may bring.

Information is covered by section 23(1) CRCA when:

- It is held for a function of HMRC; and
- It relates to a 'person' who is identified, or who could be identified from the information.

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

Relates to property where a person could be identified from the information - The term 'person' applies not just to individuals, but to any legal entity such as a company or partnership. The information you have requested is about properties identified by the addresses. There are many ways of linking addresses to people by cross referencing with other information available to the public. For example HM Land Registry, local library resources and other online information.

I have attached an appendix setting out the law, and an explanation of information we are unable to disclose under the FOIA.

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

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

Section 21 of the (FOIA) relates to information accessible to an applicant by other means;

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1) -
 - (a) Information may be reasonably accessible to the applicant even though it is accessible only on payment, and
 - (b) Information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

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,

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),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 covers both individuals and legal entities (See Schedule 1 of the Interpretation Act 1978.). What this means in practice is that it is much wider than the Data Protection Act (DPA) which refers to 'living individuals'. 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.

Sections 18(1) and 23 (as amended)¹ of the CRCA taken together, removes information about any person or a property from the right of access under FOIA.

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

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>

'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.'

Further section 19(4)² 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.

Schedule 1 of the Interpretation Act 1978 -

<http://www.legislation.gov.uk/ukpga/1978/30/schedule/1>