

**Legal Services
Room 220
The Business Centre
Futures Park
Bacup
OL13 0BB**

C Smith
What do they know

This matter is being dealt with by:
Name: Abigail Wrench
Telephone: 01706 252459
Email: foi@rossendalebc.gov.uk
Our reference: FOI/JW/6131
Date: 06.04.2018

Dear C Smith

FREEDOM OF INFORMATION REQUEST

Thank you for your Freedom of Information request for information dated 06.04.2018.

Your request states:-

We are cognizant of the fact that Billing Authorities hold on account sums of money that are due to be returned to ratepayers and for a variety of reasons have not been repaid.

I therefore request a breakdown of credit balances accrued since your earliest records, for the amounts owing to all incorporated companies within your authority's billing area, including the following information:

- A. The legal name of each business in respect of which non-domestic rate credit balances remain payable
- B. The value of overpayment in each case which remains unclaimed
- C. The years(s) in which overpayment was made
- D. The hereditament address
- E. The legal name of each business in respect of which non-domestic rate credit balances have been written back on to the NDR account
- F. The value of write back in each case which remains unclaimed
- G. The years(s) in which the write back was made (if available)
- H. The hereditament address that the write back relates to

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Answer:

I can confirm that Rossendale Borough Council holds the information you requested. However we are withholding that information since we consider that the exemption/s under Section 31 of the Act.

Section 31(1)(a) – Law Enforcement

Section 31 states:

- (1) Information which is not exemption information by virtue of Section 30 is exempt information if its disclosure under the Act would, or would be likely to, prejudice-*
(a) The prevention or detection of crime

To use this exemption we are required to undertake a public interest test. The matters which were considered in applying the public interest test are as follows:

Factors in favour of disclosure

Withholding the information could be perceived as the council attempting to retain monies that belong to the public.

It is in the public interest to be open and transparent about our use of public funds.

It is also in the public interest to provide some transparency regarding the records we hold in respect of the administration of business rates. This could be of interest to the minority of people who are due a refund, but have somehow failed to receive the notifications that money is due to them.

Factors in favour of withholding

There is a public interest in ensuring that monies from the public purse, such as rebates on business accounts, are not fraudulently claimed and also a public interest in not making it easier for fraud to be committed.

Our current verification procedure for refund claims is simple and cost effective. Disclosure of the requested information would result in additional verification processes needing to be implemented, at additional cost to the public which appeared disproportionate to the benefits that would accrue from disclosure. The additional verification procedures would also be likely to slow the verification process, resulting in detriment to the genuine ratepayer which would be contrary to the public interest.

In relation to any new verification processes that might be needed, these would be likely to require the production of additional documents by those claiming a rebate which would place a new administrative burden on the majority of those legitimate claimants that did not currently exist. This would be compounded by the fact that the level of scrutiny of those documents would be higher than at present, given the increased suspicion that some of the claims (and associated documents) might well be fraudulent. The result would be that a new verification process would be likely to

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slow the rate at which credit balance claims could be considered and refunded, causing delay in all refunds and the likelihood of complaints, which would further burden our limited resources.

Disclosure of the requested information would result in the need to implement disproportionate steps and additional expense to the public purse to counter an increased fraud risk that do not exist at present.

The cost consequences of a successful fraudulent claim would:

- have incurred the cost of paying out to the fraudster;
- remain liable to the legitimate rate payer for an equivalent amount, raising the prospect of paying out twice; and
- be faced with the cost (legal and incurrence of internal management time) of seeking to recover the funds wrongly paid to the fraudster.

It would not be in the public interest to expose it to such potential costs and expenses, given that they would be funded from the public purse.

It is considered that the greater public interest, therefore, lies in not providing the information at this time. In coming to that conclusion, the public interest in providing the information has been carefully weighed against any prejudice to the public interest that might arise from withholding the information; in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. This response, therefore, acts as a refusal notice under section 17 of the FOIA.

The Council is therefore satisfied that the public interest weights in favour of maintaining the exemption.

Where information relevant to your request falls outside of this exemption, it remains the Council's position that the information is exempt from disclosure under the other exemptions set out within this response.

Right to Review

If you are unhappy with the way your request has been handled you can request a review by writing to Mrs Clare Birtwistle, Legal Services Manager, Rossendale Borough Council, The Business Centre, Futures Park, Bacup, OL13 0BB.

If you remain dissatisfied you have a right to appeal to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone 0303 123 1113 or 01625 54 57 45 or visit their website at <https://ico.org.uk/>

There is no charge for making an appeal.

Yours sincerely,

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Abigail Wrench
Trainee Solicitor

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