



## Valuation Office Agency

**Thomas Lindie**  
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To: Peter Michael Stephenson

Email: [foi@voa.gsi.gov.uk](mailto:foi@voa.gsi.gov.uk)

Email: [request-420374-cd086d07@whatdotheyknow.com](mailto:request-420374-cd086d07@whatdotheyknow.com)

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Your Reference: 11786107.1/CEO

Date: 10 August 2017

Dear Mr Stephenson

**Freedom of Information Act (FOIA) 2000**  
**VOA ref: 11786107.1/CEO**

Thank you for your request, which was received on 21 July 2017, and we are treating as a request for information under the FOIA.

**Your request for Information under the FOIA**

*"Please inform me of any communication you have had with Skegness Town Council about the rates potentially payable on the community hub it was planning to build on the site of what is now Tower Gardens Pavilion.*

*If, for the purposes of this FOI request, you insist that it must be about copies of documents, emails and records of telephone calls so be it. Send me those. But in reality if you simply tell me what substantive information was passed to Skegness Town Council - such as what estimate was given and when it was given - that will suffice. Alternatively you may say that there has been no such discussion. This enquiry can be answered in one sentence."*

**Response to your request:**

Under section 44(2) of the FOIA I can neither confirm nor deny whether Valuation Office Agency (VOA) holds information falling within the scope of your request. Section 44(2) removes the obligation at section 1(1)(a) of the FOIA. This is because confirming whether we hold the information is prohibited by an enactment.

In this instance, the relevant enactment is section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005. To determine whether Information is covered by section 23(1) CRCA we need to consider if:

- It is held in connection with a function of HMRC;
- 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 section 7 and 10 of CRCA.

**Relates to a person who is identified or could be identified from the information -**

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 request a review of this response if dissatisfied, by email to: [foi@voa.gsi.gov.uk](mailto:foi@voa.gsi.gov.uk). Alternatively, you can make such a request by writing to: Valuation Office Agency, Information Law and Disclosure Team, Head Office, 6<sup>th</sup> Floor, Wingate House, 93/107 Shaftesbury Avenue, London, W1D 5BU

A request for a review must be received within 2 months of the date of this letter. 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 cannot make a decision unless you have exhausted the complaints procedure provided by the Valuation Office Agency. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

*Thomas Lindie*

Thomas Lindie  
Director of Non Domestic Rating

## 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**,
- (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),<sup>1</sup> 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<sup>2</sup> and 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*

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<sup>1</sup> 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.'

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

*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>**