



**Valuation Office
Agency**

**DVS – Director of Property
Services
Patricia Bowen**

Leeds Valuation Office
Castle House
31 Lisbon Street
Leeds
LS1 4DR

To: Chris Hurrell

Our Reference: 11790298.1/CEO

Email: [request-466225-
de9096ce@whatdotheyknow.com](mailto:request-466225-de9096ce@whatdotheyknow.com)

E Mail : foi@voa.gsi.gov.uk

Date : 21 March 2018

Dear Mr Hurrell

**Freedom of Information Act (FOIA) 2000
VOA ref: 11790298.1/CEO**

Thank you for your request received on 21 February which I am treating as a request for information under the FOIA.

Your request for Information under the FOIA

*"Sale of land at Bexhill Road Recreation Ground - district valuers reports
Valuation of the freehold of land at the lower tier of Bexhill Road Recreation Ground
for housing development
The local District Valuation Service for Hastings East Sussex has produced two
valuation reports for land at Bexhill Road/Bultherhythe Recreation Ground.
On the 04/12/17 Hastings Borough Council Cabinet discussed the sale of land at
Bexhill Road Recreation Ground for 158 homes as part of the three site Sports Village
development. The report to Cabinet stated that the District Valuer had originally
assessed the value of this site as £3.7million and the developers have offered to pay
HBC £2million.
Following the Cabinet meeting it has been stated that the District Valuer has revised
the land value estimate down by £7.45m to -£3.75m. The developers are still
committed to paying £2m.
Could you please supply copies of the 2 district valuation reports. The one quoted
prior to the Cabinet meeting and the one quoted afterwards."*

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.

Provision of information outside of the FOIA

I suggest that you direct your request to Hastings Borough Council as the VOA is not in a position to even state whether or not that it has undertaken work for a client.

If you are unhappy with this reply you may request a review by email to: foi@voa.gsi.gov.uk. Alternatively, you can make a request by writing to: Valuation Office Agency, Information Law and Disclosure Team, Head Office, 6th 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

P Bowen

Patricia Bowen
Director of Property Services

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), ¹is 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 ²and 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 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>

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>

