



**Valuation Office
Agency**

Patricia Bowen Director of DVS

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

To: Ms Rochester-Clarke

Our Reference: 11783135.2/CEO

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

Date : 07 April 2017

Email: request-395552-27b14d0d@whatdotheyknow.com

Dear Ms Rochester-Clarke

**Freedom of Information Act 2000 (FOIA)
VOA ref: 11783135.2/CEO**

Thank you for your request received on 16 March 2017, which we are treating as a request for information under the FOIA.

Your request for information Under FOIA:

"I am requesting the District Valuer's Certification of Best Consideration and any relevant information regarding Apex House in the London Borough of Haringey. I believe this Certification and information relates to the year 2014.

Apex House was a public asset and remains of prime importance to our community, hence the above request."

Response to your request:

When considering a request under this Act I cannot take into account that you are the requester [*or the reason that you are seeking the information*] in reaching a decision about whether I am able to disclose the information you have asked for.

Under section 44(2) of the FOIA I can neither confirm nor deny whether the Valuation Office Agency (VOA) holds information falling within the scope of your request.

Section 44 of the FOIA applies when the requested information, if held, would be prohibited from disclosure under any enactment.

In this instance, the relevant Act is section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005. Information is covered by section 23(1) CRCA 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.

The information you are seeking, if held, would be held in connection with the VOA's functions as set out in sections 7 (Schedule 1) and 10 of the CRCA.

- would enable a person to be identified from the information.

The term "person" includes legal entities such as companies, trusts and charities, as well as living individuals. (See Schedule 1 of the Interpretation Act 1978: <http://www.legislation.gov.uk/ukpga/1978/30/schedule/1>)

Where even just confirming whether we hold the information would, of itself, tell you something about this person, then section 44(2) of the FOIA removes the obligation to confirm whether the information is held.

The attached Appendix sets out the law and provides an extract of our Publication Scheme which explains, "*Information we will not disclose under the Freedom of Information Act 2000 (FOI)*".

I hope you find this reply useful, however if dissatisfied, 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 DVS

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,

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)"*.

'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 CRCA² and 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>

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>