

Request

In terms of the Freedom of Information Act 2000, and subject to section 40(2) on excluding personal data, could you please provide me with a complete and up-to-date current snapshot of all business (non-residential) property rates data for your local authority, including the following fields:

- Firm's Trading Name (i.e. the ratepayer)
- Property Address (Number, Street, Town)
- Property Post Code
- Billing Authority Property Reference Code (linking the property to the VOA database reference)
- 2017 Rateable Value
- Liability Start Date (for current ratepayer)
- Reliefs Applied (i.e. SBRR, retail relief etc.)
- Empty (Y/N)
- Empty Start Date (if applicable)
- Empty Exemptions Applied (i.e. listed building, land etc.)
- Property Description
- Net Annual Rates Charged 22/23 (after any reliefs/exemptions etc.)

Response

We can confirm that we hold the information you requested however are refusing to provide you with the information as we consider exemptions under sections 21 and 41 apply.

Some of the information you have requested is considered exempt under Section 21 of the Act, which applies to information which is available to you by other means. This exemption applies to the 2017 rating list including property address, description and reference number. This information can be obtained from the Valuation Office Agency's website - www.voa.gov.uk

As this information is reasonably accessible to you by other means, we are not obliged to provide this information to you under the Freedom of Information Act.

Section 41 applies to information provided in confidence.

This applies to the account/business name of the liable party and the billing address, the account start/end date, details of if the property is currently subject to rate reliefs, the date from which any reliefs have been applied and their values including if the property has an occupied/empty status.

This information is exempt under section 41 because we consider that the common law principle of tax payer confidentiality applies.

Section 41, relates to information provided in confidence and states: Information is exempt information if –

- a) it was obtained by the public authority from any other person (including another public authority), and
- b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

Section 41(1)(a) requires that the information in question was obtained from any other person. The information in question has been obtained by us from owners, ratepayers and third-party companies/agents, therefore we consider this part of the exemption satisfied.

Section 41(1)(b) requires the disclosure by us to constitute an actionable breach of confidence. So the information must have the necessary quality of confidence, and in our opinion it does. It is recognised in English law that an important duty of confidentiality is owed to tax and rate payers.

This is what is known as “taxpayer confidentiality”. This is a long-established principle of common law, protecting taxpayers' affairs against disclosure to the public. I am satisfied that the requested information is not trivial, nor is it available by any other means and if we were to disclose the requested information business ratepayers/their representatives could issue legal proceedings against us.

The public interest test reasons for disclosure:

Openness and transparency in relation to procedures and decision making of public authorities and collection of taxes and management of finances

Reasons against disclosure:

Remain compliant with necessary regulations - the common law principle of tax-payer confidentiality applies to this data.

Protect the public purse from legal claims against it, in relation to providing confidential information. The public interest defence (in any future legal proceedings) in providing the list of business rates information you have requested would likely fail thus it is determined, any prospective court action against the council may succeed (opening it up to claims for costs), this is in accordance with “Westminster City Council v ICO and Gavin Chait, EA/2018/0033, 2nd December and Sheffield City Council v ICO and Gavin Chait, EA/2018/0055, 16th December

Commercial impact on the business rates account holder, release of this data would likely constitute a breach of confidence as it could damage the individual's/organisation's competitive position, or ability to compete, as disclosure would reveal information that would assist competitors and negatively impact on the confider's relationship with the authority, potentially hindering future investment in the borough.

We conclude that for the reasons stated above, the public interest test for withholding this data outweighs the interest for its release therefore this information is being withheld from disclosure.