



REQUEST 17877

In terms of the Freedom of Information Act of 2000, and subject to section 40(2) on personal data, could you please provide me with your local authority's complete and most-recently updated list of all business (non-residential) property rates data, including the following fields:

- Billing Authority Property Reference Code (linking the property to the public VOA database reference)
- Firm's Trading Name (i.e. property occupant or ratepayer)
- Full Property Address (Number, Street, Postal Code, Town)
- Occupation / Vacancy status
- Date of Occupation / Vacancy
- Reliefs and / or exemption categories (classifications) granted or applied
- Date that reliefs and / or exemption categories granted or applied
- Value of reliefs and / or exemption categories granted or applied (in Pounds)
- Actual annual rates charged (in Pounds)

If you are unable to provide an absolute "Occupation / Vacancy" status, please provide the balance of the information requested.

Let me state this clearly: I recognise that you ordinarily refuse to release these data, and that you do so in full knowledge of the scope and scale of the research data that I produce, and have produced since 2016, based on the near 80% of local authorities which do publish data in response to my requests.

It has taken time, but the Upper Tier Tribunal has now ruled on this class of information request in UA-2024-000544 and 000546-GIA [2025] UKUT 054&055 (AAC) EDWARD CARTER V INFORMATION COMMISSIONER, WESTMINSTER CITY COUNCIL AND THE CITY OF LONDON CORPORATION

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There are two specific rulings that are germane to my request:

1. The Upper Tribunal confirmed that local authorities should not rely on the Lower Tribunal's decisions in future cases: "This decision is not binding on any other public authority, nor does it mean that any request for similar information in the future should be refused by these two authorities. Each request should be assessed based on the public interest in disclosure of the particular information requested at that particular time."

This means that you *cannot* simply state that a request we have made to another authority, that was refused, has any weight or influence on your decision. You have to make a new, and independent, decision.

2. The Upper Tribunal ruled that the Section 31 balancing exercise under section 2(2)(b) (public interest) was only necessary if section 31 was engaged at all. But they declared explicitly that treating Section 31 as if it is automatically engaged is an *error of law*: "So, there was evidence from the experience of Westminster and the City before their change of policy and from the other local authorities in London. The tribunal had three options. It could have accepted the evidence and decided that section 31 was not engaged. Or it could have rejected it and decided that the section was engaged. Or it could have assessed its predictive value and decided that the section was nonetheless engaged. It was not entitled to ignore it, because on its face it was potentially relevant. The tribunal should have said what it made of that evidence in making its prediction under section 31. It did not do so and that was an error of law."

This means that the fact that the vast majority of local authorities publish the data we request, and that you yourselves have historically done so, and that *none* of this has ever resulted in any criminal activity strongly implies that there is no basis in relying on Section 31, and insist you not do so unless you have specific evidence that publishing these data has resulted in incidents of crime in your authority.

Finally, while the Upper Tribunal did not rule specifically on Section 41, they did state as follows: "If we had to consider section 41, we would not have been satisfied that the link between the company name and necessary hereditament had the necessary quality of confidence as a class."

This means that the Upper Tribunal was convinced that - while time-consuming - it is relatively straightforward to use Google or the phone book to explicitly link VOA addresses to companies, and so there is no protection from disclosure in providing this information.

Your continued refusal wastes both your and my time and money. Any delay or refusal on your part will be referred to ICO for a decision, and ICO is now functioning under this revised Upper Tribunal guidance.

Please provide these data as machine-readable as either a CSV or Microsoft Excel file, capable of re-use, and under terms of the Open Government Licence (meaning reuse for any and all purposes, including commercial).

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, 31 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 Billing Authority reference number and the 2017/2023 rating list including property address and description. 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.

We can confirm that we hold the information for the name of the rate payer, however, are refusing to provide you with the information as we consider an exemption under section 31 of the Act applies.

Section 31(1)(a) of the Freedom of Information Act 2000 (FoIA) states that the information is exempt from disclosure if disclosure would, or would be likely to, prejudice the prevention or detection of crime.

As disclosure under the FoIA is deemed to be to the world at large, we believe that the exemption is engaged in respect of the list of businesses including name and address. Publishing a list of names alongside property addresses could reduce the effectiveness of the security checks used when discussing accounts with the public and could result in fraudulent claims or request for information.

One of the security questions used is 'the name on the bill' (the liable business party name). This could allow for someone to seek to impersonate the true ratepayer or assist them to falsely claim monies.

While this information by itself will not necessarily result in a breach of the council's security systems, it gives one answer to one of the security questions for all ratepayers and therefore weakens the system to some extent.

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 HIGH.

Reasons against disclosure:

There is strong public interest in ensuring the integrity of our security checks are maintained to prevent fraud. There is a real and evident risk of crime if information is released (confirmation of many fraudulent activities ongoing at present via NFI).

Disclosure would be likely to prejudice the Council's ability to identify, limit or prevent fraudulent attempts to access records and sensitive data. There is an inherent duty to protect individuals and organisations from the effects of crime and thus a strong public interest in avoiding the likely prejudice to the prevention of crime. We conclude that the public interest in withholding the list of businesses including names and addresses, outweighs the public interest in disclosure at this present time and therefore the information is being withheld from disclosure.

The remaining information requested is considered exempt under section 41 of the Act. Section 41 applies to information provided in confidence.

This applies to the billing address, the account start 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 taxpayer 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.