



Further to your information request FOI/EIR 25/26-036, please find your question and our response below.

Request:

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.

Response:

Please see the attached spreadsheet for information related to business property rates accounts held in the name of East Cambridgeshire District Council.

In relation to data held where the ratepayer is a company or other organisation, we are withholding this information under **Section 41(1) Information Provided in Confidence** and **Section 31(1)(a) Law Enforcement**.

This information is exempt from disclosure under Section 41(1) of the Freedom of Information Act 2000. In respect of those requests that are answered in full, partially or the total refused, please take this as notice under FOIA, that we:

- a) Consider the information as exempt from disclosure under the Act.
- b) Claim exempt under sections of the Act:

Section 41(1) Information Provided in Confidence

- c) State why the exemption applies:

41(1) 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) of the FOI Act provides that information is exempt if it was obtained by the public authority from any other person (or company, local authority or any other legal entity) and disclosure of the information to the public by the public authority holding it, would constitute a breach of confidence. The information was provided to the Council from the Valuation Office and from the ratepayer themselves, and therefore we consider this part of the exemption satisfied. This applies to the account/company 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.

Section 41(1)(b) requires the disclosure by us to constitute an actionable breach of confidence. 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. This is shown in supreme court case UKSC-2015-0082 R (Ingenious Media Holdings plc and another) v Revenue and Customs Commissioners [2016] UKSC 54 (‘Ingenious Media’), paragraph 17: *‘where information of a personal or confidential nature is obtained or received in the exercise of a legal power or in furtherance of a public duty, the recipient will in general owe a duty to the person from who it was received or to who it relates not to use it for other purposes.’* This definition was accepted in First tier Tribunal (General Regulatory Chamber) Information Rights decision ES/2018/0033.

We accept that some information held in business rates files (such as details of exemptions and discounts) is not information that has been supplied by the ratepayer. However, we consider that disclosing that information would reveal the content of information which was obtained from the ratepayer.

Section 41(1) is an absolute exemption and does not require the public interest test. However, we have detailed below factors in disclosure vs withholding. In the case of Section 41(1), there would have to be a very strong public interest to justify breaking confidentiality.

Factors in favour of disclosing the information

- There is a general public interest in Council transparency and accountability.
- There is a public interest in enabling individuals to understand decisions made by public authorities that affect their lives.

Factors in favour of maintaining the exemption

- Ratepayer information is supplied with an expectation of confidentiality.
- While some information may already be in the public domain, the difficulty in finding such information makes it such that it can still be regarded as confidential.
- Any disclosure of confidential information will to some degree undermine the principle of confidentiality and the relationship of trust between public authorities and those who provide information to them.
- There is a limited public interest in disclosing the information, and insufficient public interest in disclosure to outweigh the importance of the general common law principle of taxpayer confidentiality.

Balance of public interest

Although there is a legal defence that confidential information may be released where the public interest in doing so outweighs the Council's duty of confidentiality, we have concluded that considering all factors, there is insufficient public interest to justify breaching confidentiality, and on balance, the factors in favour of maintaining the exemption outweigh those of disclosure.

Please note that the following information is already available in the public domain via the Valuation Office Agency (VOA):

- Property Reference
- Description of the Property (e.g. ‘Hall and Premises’ ‘Store & Premises’ etc.)
- Property Address (with any personal data removed)
- Current Rateable Value
- Current Rateable Value Effective Date

In respect of those requests that were answered in full or partially and the total refused please take this as notice under FOIA, that we:

a) Consider the information as exempt from disclosure under the Act;

b) Claim exempt under sections of the Act:

Section 31(1)(a) Law enforcement

c) State why the exemption applies:

***(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—
(a) the prevention or detection of crime***

The information requested, once released, would be in the public domain and could be used by fraudsters or criminals hijacking the identity of a company or company representative to commit fraud or acquire further confidential information that would enable fraud. Fraudsters may also link information to other public sources such as Companies House to increase their success in committing crimes.

Section 31 is a qualified exemption that may only be applied if the public interest in disclosure does not outweigh the public interest in withholding the information.

Factors in favour of disclosing the information

- Withholding the information could be perceived as the council attempting to retain monies that belong to the public.
- It is in the public interest to be open and transparent about the council's use of public funds.
- It is in the public interest to provide some transparency regarding the records we hold in respect of the administration of business rates. This could be of interest to the minority of people who are due a refund and have somehow failed to receive the notifications that money is due to them.

Factors in favour of maintaining the exemption

- There is a public interest in ensuring that monies from the public purse, such as rebates on business accounts, are not fraudulently claimed and also a public interest in not making it easier for fraud to be committed.
- Our current verification procedure for refund claims is simple and cost effective. Disclosure of the requested information would result in additional verification processes needing to be implemented, at additional cost to the public, which appears to be disproportionate to the benefits that would accrue from disclosure.
- Disclosure of the requested information would result in the need to implement disproportionate steps and additional expense to the public purse to counter an increased fraud risk that does not exist at present.

Balance of public interest

It would not be in the public interest to expose the council to such potential costs and expenses, given that they would be funded from the public purse. It is considered that the greater public interest, therefore, lies in not providing the information.

This concludes your request FOI/EIR 25/26-036.

If information has been refused, please treat this as a Refusal Notice for the purposes of the Act.

If you disagree with our decision or are otherwise unhappy with how we have dealt with your request in the first instance you may approach foi@eastcambs.gov.uk and request a review. A request for review must be made in no more than 40 working days from the date of this email.

Should you remain dissatisfied with the outcome you have a right under s50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF.