

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2017

Public Authority: City of London Corporation
Address: PO Box270
Guildhall
London
EC2P 2EJ

Decision (including any steps ordered)

1. The complainant has requested business ratepayer information from the City of London Corporation (COL). COL refused part of the request, for ratepayer names, relying on the exemption at section 31(1)(a).
2. The Commissioner's decision is that the exemption at section 31(1)(a) is not engaged.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Disclose the business ratepayer names as set out in the complainant's request.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 20 January 2017, the complainant wrote to COL and requested information in the following terms:

"I would like a list of business of business rate payers within the Corporation of London area, equivalent to the ones published by London Boroughs, for example on Islington and Tower Hamlets."

6. COL responded on 14 February 2017. It refused the request relying on section 21 – information accessible to the applicant by other means, sections 31(1)(a) – prevention and detection of crime and 31(1)(d) – the assessment or collection of any tax or duty or of any imposition of a similar nature.
7. The complainant requested an internal review on 18 February 2017, advising COL that his request could be amended to exclude sole traders and empty properties.
8. COL wrote to the complainant on 28 March 2017. It stated that it had revised its position and no longer relied on section 21. COL disclosed some of the requested information; namely, property reference, address, rateable value and account start date. COL maintained reliance on sections 31(1)(a) and 31(1)(d) in respect of the names of business ratepayers.

Scope of the case

9. The complainant contacted the Commissioner on 31 March 2017 to complain about the way his request for information had been handled. Specifically he asserted that COL's argument regarding illegal occupation was unsustainable as the Occupy London movement had expressed its intention to occupy property belonging to the companies that crashed the global economy and that the address of any target properties could be uncovered by a simple online search.
10. The complainant also set out that COL's position in relation to empty property is undermined by its own website which has a commercial property search portal which advertises available properties, including their addresses.
11. During the course of the Commissioner's investigation, COL sought to refuse the request by relying on section 12 – cost of compliance exceeds the appropriate limit but later withdrew its reliance on section 12, reverting to its position that section 31(1)(a) was engaged. COL
12. The Commissioner considers the scope of the investigation is to consider COL's reliance on section 31(1)(a) with regard to the names of business ratepayers. Although the Commissioner notes the complainant's position in relation to empty properties, she does not

consider that this information falls to be considered as part of her investigation as the complainant had excluded empty properties from his request at the internal review stage.

Reasons for decision

13. Section 31(1)(a) of FOIA states that information is exempt if its disclosure under FOIA would be likely to prejudice the prevention or detection of crime. Section 31 is a prejudice based exemption and in order for a prejudice based exemption to be engaged, the Commissioner considers that three criteria must be met:
- Firstly, the actual harm which the public authority alleges would, or would be likely to occur, if the withheld information was disclosed, has to relate to the applicable interests within the relevant exemption;
 - secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance and
 - thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority, is met – i.e. disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice. In relation to the lower threshold the Commissioner considers that the chance of prejudice occurring must be more than a hypothetical possibility; there must be a real and significant risk. With regard to the higher threshold, the Commissioner's view is that this places a higher evidential burden on the public authority; the anticipated prejudice must be more likely than not.
14. In relation to the first criterion, the Commissioner accepts that the potential prejudice set out by COL relates to the interests which the exemption at section 31(1)(a) is designed to protect.
15. Turning to the second criterion, the Commissioner has considered COL's submission in relation to the causal relationship.
16. COL has set out that Islington provides less information than Tower Hamlets and that it therefore considers that the complainant would be content for disclosure to be the same as that for Islington. COL has explained that the information it disclosed at internal review does not

include ratepayers' names but does include some information not disclosed by Islington.

17. In refusing the complainant's request, COL's position is that disclosure of the names of ratepayers may put their properties at risk from crime.
18. Expanding on that issue, COL has set out its concerns about the movement 'Occupy London'. COL has explained that illegal occupation has happened and could do so again. It has relied on the example of the occupation of areas around St Paul's Cathedral in central London in 2011/12.
19. It is COL's position that although that particular campsite was removed in 2012, following a successful application for a possession order which evicted protestors, the threat to buildings in the City of London remains. COL has set out that at the time of the possession order, the judges took into consideration that the camp had resulted in *"an increase in crime and disorder around the cathedral."*
20. COL had set out in its internal review that at the time of one of its occupations, Occupy London's website set out its motivation and intention which was to occupy property belonging to the companies that crashed the global economy. It hoped that the particular occupation would be the first in a wave of public repossessions.
21. COL has set out that both empty and occupied property has been targeted at various times. It has set out that if it were to come to light, after an event, that information from rating records had been used, it would be too late to retrieve the situation.
22. It has acknowledged that most illegal occupation attempts have been on empty properties, it refers to attempts having been made to enter occupied property illegally and cites one report dating back to an attempt by activists in 2011 to storm a building in the West End of London which, although in central London, lies beyond the boundary of the City of London.
23. In its submission to the Commissioner COL has set out that it does not suggest there is an immediate causal connection between disclosure and an increase in crime and disorder. However it has stated that property in the City of London, whether occupied or vacant, is of interest to groups and individuals whose occupation activities tend to increase crime and disorder.

24. In addition to its concerns about occupation of buildings, COL has also set out that there would be a significant and weighty chance of data concerning ratepayers' names being exploited for more serious crime. By providing this information to the 'world at large' COL is concerned that it is opening itself up to fraudulent activity including cyber-attacks on businesses in the City of London which has become a growing concern.
25. COL has also made reference to London being an attractive target for terrorism and has set out that particular prominent organisations could well be targeted in any criminal or terrorist activity. In respect of this assertion, COL has again set out that it is not suggesting there is an immediate causal connection between disclosure and any criminal or terrorist activity.
26. COL has not detailed any causal link between disclosure of ratepayer information and the exploitation of that information for more serious crime nor has it provided any detail to link disclosure of ratepayer names to fraudulent activity or cyber-attacks on businesses within the City of London.
27. In its submissions, COL has not detailed that any previous illegal occupation has taken place due to the release of ratepayer information and it has stated that there is no immediate causal link.
28. The Commissioner considers that in respect of the second criterion, COL's arguments are speculative and do not stand up to scrutiny in terms of any causal link between disclosure of the requested information and prejudice to the interests protected by the exemption at section 31(1)(a). COL has not satisfactorily established that any prejudice resulting from disclosure is real, actual or of substance and accordingly, it is the Commissioner's position that the second criterion is not met.
29. Given that the second of the three criteria is not met, the Commissioner cannot find that section 31(1)(a) is engaged. She has not therefore gone on to consider whether the third criterion is met, nor has she considered the balance of the public interest.

Right of appeal

30. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 7395836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

**Sarah O’Cathain
Senior Case Officer
Information Commissioner’s Office
Wycliffe House
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SK9 5AF**