

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 23 November 2022

**Public Authority:** East Suffolk Council  
**Address:** East Suffolk House  
Station Road  
Melton, Woodbridge  
IP12 1RT

#### **Decision (including any steps ordered)**

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1. The complainant requested information about business rates. East Suffolk Council (the "council") refused the request citing the exemptions for personal data (section 40) and information provided in confidence (section 41). During the Commissioner's investigation the council confirmed that it was also relying on the exemption for law enforcement to withhold the information (section 31(1)(a)).
2. The Commissioner's decision is that the council correctly withheld the information under section 31(1)(a) of the FOIA and that the public interest favours maintaining the exemption.
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 12 April 2022 the complainant wrote to East Suffolk Council (the "council") and requested the following information:

"Under the FOI please disclose full business rate information for all premises based at NR33 9LZ (Brooke Business Park). I assume this will be in MS Excel format and believe this will be for about 73 premises according to VO data. I understand this will only be for limited companies as you are not obliged to disclose data for individuals (sole traders, partnerships, etc.)."

5. The council's final position is that the information is subject to the exemptions for personal data (section 40), information provided in confidence (section 41) and law enforcement (section 31(1)(a)).

## Reasons for decision

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6. This reasoning covers why the Commissioner has concluded that the council has correctly withheld the requested information under the exemption in section 31(1)(a) of the FOIA.

### Section 31(1) – law enforcement

7. Section 31(1)(a) FOIA states that:

"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, ..."

8. In relation to its application of the exemption, the council provided the following submissions:
- "Businesses are recognised as vulnerable to fraud in a number of ways with potential fraud losses both to a business itself, or to other parties who deal it such as creditors, suppliers, or customers. Examples of frauds where legitimate business information is misused include payment diversion, submission of falsified invoices, or targeting an identified business to build trust and then manipulate the business for fraudulent purposes. Other examples of fraud such as distribution fraud to overseas traders are also possible but rare.
  - Councils may use confidential business rates information, with appropriate agreements and safeguards in place, as a form of validation when dealing with businesses locally. In particular, validation against business rates data when processing grants to local

businesses is an important aspect of fraud prevention. Within the fields listed in the appendix to this letter there are fields that have been key to validating businesses and preventing fraud in grants administered by this Council. The Council subscribes to the National Anti-Fraud Network (NAFN), and routinely receives alerts with examples of business impersonation fraud where an individual fraudulently pretends to represent a business occupying a given premises and may go on to request amendments to details of that business. Examples are varied but include amendments to bank accounts in order to fraudulently obtain a payment or refund due to the legitimate business, or false applications to claim for a grant the legitimate business would be entitled to. This would result in loss to the business or loss to the public purse.

- Publishing details of credit balances increases the risk that fraudsters become aware of refunds due to a business and would target the Council seeking to divert the refund to their own bank account.”
9. In determining whether the exemption is engaged, the Commissioner has considered these and other submissions provided by the council. He has also referred to previous decision notices he has issued in relation to requests for comparable information. He considers that the conclusions he reached in decision notices issued in relation to requests made to London Borough of Tower Hamlets Council and City of London are transposable to the current case<sup>1</sup>.
  10. Taking the above factors into account the Commissioner is satisfied that disclosing the information would be likely to result in prejudice to the prevention or detection of crime and that the exemption in section 31(1)(a) is engaged.
  11. In relation to the public interest, the Commissioner recognises that there is a general public interest in openness and transparency in relation to the way in which public funds are collected and used.
  12. The Commissioner also considers that there is a very strong public interest in protecting the law enforcement capabilities of public authorities. When considering the public interest in preventing crime, it

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2173119/fs50671834.pdf> and <https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258809/fs50681249.pdf>

is important to take account of the consequences that can reasonably be anticipated.

13. Beyond the general public interest in transparency, the Commissioner is not aware of any specific public interest arguments in favour of disclosing the business rates information requested, at least none which would counterbalance the public interest in preventing the fraud which disclosure would be likely to cause. It is not apparent what interests, beyond commercial interests, placing the information in the public domain would serve.
14. Having considered the council's and the complainant's submissions and referred to the conclusions reached in the decision notices referred to in paragraph nine above, the Commissioner has concluded that the public interest in maintaining the exemption at section 31(1)(a) outweighs the public interest in disclosure. The council has, therefore, correctly relied on section 31(1)(a) in this case.
15. As he has concluded that the council correctly applied section 31(1)(a) to withhold the information in this case the Commissioner has not gone on to consider its application of section 40 and section 41.

## Right of appeal

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16. 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: 0203 936 8963  
Fax: 0870 739 5836  
Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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 .....**

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**