

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 December 2022

Public Authority: HM Land Registry
Address: Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. The complainant has requested from HM Land Registry (HMLR) the 'Title Number and UPRN Look Up dataset'. This dataset contains HMLR title numbers and Unique Property Reference Numbers (UPRN) for freehold and leasehold land and property registered in England and Wales. HMLR refused to provide this information citing section 21 of FOIA and, after the Commissioner began his investigation, citing section 31 of FOIA regarding the same information.
2. The Commissioner's decision is that HMLR has incorrectly cited section 21 of FOIA in this instance for the reasons given later in this decision notice but correctly cited section 31 of FOIA.
3. The Commissioner does not require HMLR to take any further steps.

Request and response

4. On 23 February 2022, the complainant (following on from recent correspondence) with HMLR wrote and requested information in the following terms:

"I would like the title UPRN lookup table currently sold as part of the National Polygon Dataset to be released under the freedom of

information act. If the Land Registry can provide a clear reason why this is not possible, I would like the lookup table for title numbers and UPRN for Land Registry data that are already in the public domain only.”

5. HMLR responded on 22 March 2022, stating that the information was exempt under section 21 of FOIA as already reasonably accessible to the requester and it provided a link to its website <https://use-land-property-data.service.gov.uk/datasets/nps>.
6. The complainant requested an internal review on 23 March 2022.
7. Following an internal review on 10 June 2022, HMLR maintained its position that section 21 was applicable.

Background

8. HMLR explained the following to the Commissioner:

“This dataset is one of three datasets available via the National Polygon Service at a cost of £20,000 per annum. These datasets are not available to purchase on an individual basis. They are only available through a licence agreement. This payment covers the costs by HMLR in maintaining this dataset but more importantly in maintaining the licence terms.”

HMLR referred the Commissioner to <https://use-land-property-data.service.gov.uk/datasets/nps>.

Scope of the case

9. The complainant contacted the Commissioner on 23 July 2022 to complain about the way their request for information had been handled, putting forward the view that the information was covered by an open government licence and that it was not reasonably accessible as the fee for it is £20,000. The complainant also signposted the Commissioner to the length of time it had taken to carry out an internal review.
10. After the Commissioner began his investigation, HMLR also cited section 31 of FOIA to the requested information.
11. The Commissioner considers the scope of this case to be HMLR’s citing of sections 21 and section 31 of FOIA.

Reasons for decision

Section 21 – information accessible to applicant by other means

12. Section 21 of FOIA provides that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
13. HMLR has provided the Commissioner with its arguments as to why it believes that section 21 is engaged, including the fact that the legislation may be reasonably accessible to the applicant though it is accessible only on payment (section 21(2)(a)). The information is available in a published dataset via HMLR's publication scheme as part of the 'National Polygon Service'.
14. However, once HMLR had also cited section 31 of FOIA, the Commissioner does not accept that section 21 is engaged. The Commissioner's guidance states the following:

"If the information is held but is covered by another exemption in Part II of FOIA, section 21 cannot apply because, for that very reason, the information is not, in fact, reasonably accessible to the requester."¹

Section 31 – law enforcement

15. Section 31(1)(a) of 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..."
16. The Commissioner's guidance² states that the

"exemption also covers information held by public authorities without any specific law enforcement responsibilities. It could also be used to withhold information that would make anyone, including the public authority itself, more vulnerable to crime..."

¹ [Information reasonably accessible to the applicant by other means \(section 21\) \(ico.org.uk\)](https://ico.org.uk/information-accessible-to-the-applicant-by-other-means-section-21/)

² [law-enforcement-foi-section-31.pdf \(ico.org.uk\)](https://ico.org.uk/law-enforcement-foi-section-31.pdf)

17. In order for section 31 to be engaged, the following criteria need to be met:

- the actual harm which the public authority claims would, or would be likely to, occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption (in this case, the prevention or detection of crime);
- 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,
- it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice.

18. Firstly, HMLR has provided the Commissioner with a sample of the requested information - Title Number and UPRN Look Up dataset. It explains that -

"UPRNs are unique 12-digit numbers created by local authorities and Ordnance Survey. Every addressable location in the UK gets a UPRN for the lifetime of the property. UPRNs are available as a free dataset to download from Ordnance Survey, but these are not linked to a property title number.

A title number is a unique reference HMLR allocates when we register a property. Title numbers are generally only available to purchase individually from HMLR's register at a cost of £3 per title register. A dataset containing all title numbers for every registered title is not available to access or purchase as a single dataset.

Although some title numbers are available to access via a dataset or upon receipt of an application, they are not considered to be freely available in the public domain.

In summary, while UPRN information is therefore freely available, and title numbers are technically available to purchase on an individual basis, this information is not otherwise available as a single combined dataset outside of the National Polygon Service and is not considered to be in the public domain."

19. HMLR argues that access to the data set is only permitted on condition of a licence agreement. The terms and conditions of the licence are published and available to view via a link:

<https://use-land-property-data.service.gov.uk/datasets/nps/licence/view>

20. The licence agreement contains a clause in the terms and conditions of licence) that gives HMLR the right to have access to the systems of users in order to audit their use of the product/service that has been created using the National Polygon Service. These terms and conditions allow HMLR to have "full visibility of who is accessing information about the titles registered" with it. It describes this as "an essential aspect of how we identify or minimise fraudulent activity taking place". The controls it uses in its services are designed to prevent fraud against HMLR and the public purse. This is required by the government.
21. These controls within the National Polygon service is a balance between the requirements for fraud controls and HMLR's need to supply data for commercial use while it protects owners from fraud. Were the information to be released, HMLR's ability to protect the register and registered proprietors against fraud would be diminished. There is also the factor of an increased risk of increased indemnity claims to HMLR due to fraudulent applications and consequent damage to its reputation. HMLR contends that, "The licensing of access to this data and the requirements of the terms and conditions allows HMLR to continue to protect the public from registered title fraud." If released, it would expose the data to uncontrolled and unaudited use, resulting in prejudicing the prevention and detection of registered title fraud and facilitating additional fraud and an increase in the level of fraudulent registrations when "fraudsters make use of previously restricted information".
22. HMLR explains that title numbers are a "fundamental component of [its] national property register" and are generally only available on an individual basis via payment by searching the register. Releasing the title number and the UPRN look up under FOIA is a disclosure to the world and would bypass the terms of the licence agreement. HMLR would be unable to know who was accessing this information and its ability to exploit the intelligence would be undermined.
23. It considers licensing to be a key tool for preventing, detecting and investigating registered title fraud. Land and property owners could be victims of fraud as information could be used by criminals to target properties in order to commit registered title fraud. HMLR argues that the register contains 26 million titles and is part of the UK's Critical

National Infrastructure. Therefore it is necessary to maintain its integrity. The register is vital to the financial interests of HMLR and, beyond that, the UK Government and the economy.

24. The value of land in England and Wales is estimated at around £8 trillion. HMLR gives the example of 2020-21 when £260 billion worth of property transactions took place in the UK. HMLR is also at the centre of the conveyancing process. It is necessary to keep a definitive and guaranteed record of land ownership in order to have a functioning property market and allow transactions to take place with confidence. It guarantees ownership for 88 per cent of land in England and Wales and has lending in the region of £1 trillion to £1.5 trillion secured against it. The register is consequently of national importance.
25. The Commissioner accepts that the actual harm claimed by HMLR would be likely to prejudice the prevention and detection of crime if the information was released. It has demonstrated that there is a causal link existing between the withheld information and the prejudice the exemption is designed to protect. The Commissioner cannot consider the cost of the licence which is likely to make the information out of reach to many individuals but he is persuaded that disclosing it outside the terms of the licence make it more liable to fraudulent use. Given the importance of the information, the prejudice is real actual and of substance as it is of great importance to the proper and legal operation of the property market and the wider economy. Section 31 is engaged.

Public interest test

26. Despite the exemption being engaged, the Commissioner needs to consider whether it would be in the public interest to release the information anyway.

Public interest arguments in favour of disclosure

27. Firstly, the complainant's arguments were directed at HMLR's citing of section 21 for reasons given earlier. The complainant does not accept HMLR's position which they describe as making "a mockery of the principles of open government" and undermining the "very idea of the" Open Government Licence. They argue that the reasoning allows any government department to package all information into a product at an arbitrary price and reject all FOI requests on the basis that it is reasonable accessible. The complainant points out the high cost which cannot be considered "reasonably accessible". The complainant supports their argument by providing a link <https://www.gov.uk/government/publications/open-standards-for-government/identifying-property-and-street-information> and quoting the

following:

"Systems, services and applications that store or publish data sets containing property and street information must use the UPRN and USRN identifiers."

Their view is that HMLR does not comply with this standard which has been in place for two years at the time of the review request and is actively resisting a clear mandate from central government. Clearly, the complainant does not believe this is in the public interest.

28. HMLR provided its public interest argument in favour of releasing the requested information as accountability and transparency but considers that it has met the public interest by making it available, either through licensed datasets or on an individual basis available via its statutory services for registered titles.

Public interest argument in favour of maintaining the exemption

29. HMLR considers there is a clear public interest in protecting society from the impact of crime. It argues that the release of the title number and UPRN Look Up dataset outside the licence agreement has a significant risk of exploitation and, as a consequence, an impact on the UK economy and its citizens. Releasing it freely would lead to an increase in fraudulent applications, in turn prejudicing the integrity of the register and an increase in indemnity claims and payments. The public interest lies in ensuring that the register is secure and its integrity not breached.
30. HMLR contends that protecting the information from disclosure minimises the potential for any compromise and the prejudicial effects of disclosure in financial terms on the UK government and its taxpayers. It explained that HMLR provides a compensation scheme for individuals who suffer loss because of errors or fraud in the register. It is not in the public interest to increase exposure to financial risk by disclosing the requested information as its liability is unlimited for indemnity claims if fraudulent applications are registered and this is borne by the UK government.

Balance of the public interest

31. The Commissioner understands that this information can be obtained outside the licence system, via an Ordnance Survey dataset. Title numbers can be purchased individually on payment of a £3 fee. However, this is not the same as being able to have access to all the requested information. Whilst understanding the complainant's view that the information should be freely available, there is a risk in providing it

outside of HMLR's licence system and bypassing its ability to manage the risk of fraud. The benefit to individuals or businesses being freely able to access the requested information is, in the Commissioner's view, secondary to the financial risk it presents of a likely significant increase in fraudulent activity. If the information was disclosed, fraud would increase and claims for compensation from HMLR correspondingly increase from victims of fraudulent use. The fact that it could not be audited or monitored is significant. The lack of control poses a risk. The alternative is disclosure without any means of auditing which the Commissioner has decided is not in the public interest.

Other matters

32. The section 45 Code of Practice³ recommends that public authorities complete the internal review process and notify the complainant of its findings within 20 working days, and certainly no later than 40 working days from receipt.
33. In this case, HMLR took several weeks beyond the recommended time to complete an internal review.

³ [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf \(publishing.service.gov.uk\)](#)

Right of appeal

34. 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 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

35. 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.

36. 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

Janine Gregory
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