

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 July 2023

**Public Authority:** Valuation Office Agency  
**Address:** (Executive Agency of HM Revenue & Customs)  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

#### Decision (including any steps ordered)

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1. The complainant has requested evidence used by the Valuation Office Agency ("the VOA") to determine house sales prices in a specific area. The VOA stated that it held information within scope of the request but refused to disclose it with reliance on section 44(1)(a)(prohibitions on disclosure) of FOIA.
2. The Commissioner's decision is that the VOA are entitled to rely on section 44(1)(a) to withhold the requested information.
3. The Commissioner does not require further steps.

#### Request and response

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4. On 29 March 2023, the complainant wrote to the VOA and requested information in the following terms:

"Thank you for your letter dated 17 November. I understand that you have based your decision on the estimated value of my house as at 1 April 1991. I also understand that there is no formal appeals process here. However I wonder if you kindly take another look on the basis of additional research I have been doing please

You may recall that I paid £107,000 for my property in 1987. I do see that your accompanying notes state house price indices are of little

value when examining local trends. But I was surprised to discover that nationally house prices fell sharply in the late 80s and early 90s by as much as 40% before beginning to recover later on. Even though national trends may be of reduced value I hope you'll see why I would like to understand the evidence that suggests to you that [POSTCODE REDACTED] would have been so very different.

I have done some further research via Zoopla and Right Move and, although they do not hold data back to 1991, they have interesting actual sale prices for 4 bed detached houses from 1995 onwards in [POSTCODE REDACTED] which suggest that the 1991 equivalents would have fallen well below £120,000.

I can understand from your accompanying notes: "Can I see the sales evidence you used?" No. Information about other taxpayer's property [from The Stamp Office] is confidential and is protected by the Commissioners for Revenue and Customs Act (CRCA) and the Data Protection Act. We are therefore unable to share that information with you.

Since you are not interested in the amount of Stamp Duty paid by an individual – only the implied house sales prices. there [sic] must be a readily available record held by you of individual house sales prices used to determine values of similar properties at 1 April 1991. So I'm a little puzzled why you quote the two acts of Parliament that you have since these cannot relate to actual property sales prices. If they did apply then Zoopla and Right Move would be routinely and repeatedly breaking the law.

I should therefore like to request that you send me all the data (reworked to exclude individuals' Stamp Duty liabilities if necessary) that you have used to estimate [POSTCODE REDACTED] prices in April 1991.

If this gives you difficulties and you are prevented from doing this, I should like to make a formal FOI request to the Valuation Office as follows:

"What is the complete detailed evidence from the Stamp Office (including the actual sales price figure but excluding if necessary actual Stamp Duty levied) used by the Valuation Office to determine house sales prices in the [POSTCODE REDACTED] area as at 1 April 1991?" I hope you understand why this is important to me and that it seems wrong that individuals are being prevented from viewing evidence used in determining significant financial issues for them – especially nowadays."

5. The VOA responded on 27 April 2023. It stated that it held some information within scope of the request but it was relying on section 44(1)(a) to withhold it. The VOA explained that section 23(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA) prevents disclosure of the requested information as to do so may enable the identity of a person to be deduced. In this instance "person" refers to legal entities such as companies, as well as individuals.
6. Outside of its obligations under FOIA, the VOA provided the complainant with some information on how Council Tax banding is determined.
7. Following an internal review the VOA wrote to the complainant on 30 May 2023. It stated that it was upholding its original decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 31 May 2023 to complain about the way their request for information had been handled.
9. The complainant expressed their grounds of complaint in the following terms:

"The VOA has cited a number of pieces of legislation which they state prohibits them from answering my question. I disagree fundamentally with this argument. Those pieces of legislation, although important, were never designed nor intended to prevent government bodies from answering the nature of the question I have put to the VOA. I believe they have wilfully chosen to apply these Acts to enable them to avoid answering such questions – quite possibly backed up by an unintended consequence of an all embracing law.

I have mentioned to the VOA the analogy with Zoopla and Right Move. These organisations have no difficulty in quoting historical sale prices of individual properties without revealing the individual owners concerned. It is untenable that private organisations can publish data that Governments cannot. If the principles cited by VOA are so important why is there no law preventing private organisations from revealing the same data?

The VOA is not concerned with how much Stamp Duty a person paid, only with actual sale prices. I am certain, and they have confirmed, that they hold a wealth of historical sale price data which they could readily make available to the public in justification of Banding calculations. To withhold this data seems to me an example of Closed Government. In principle it is quite wrong to hide data that has such huge bearing on monthly outgoings. It seems to me this renders the VOA unaccountable to anyone.

The VOA has made no effort whatsoever – eg: even to provide individual house sales data without quoting individual addresses. They are expected to move heaven and earth to provide some kind of answer within their knowledge but they continue to hide universally behind quoted prohibitive Acts.

I note that the ICO has considered this issue previously. I request that you look again please and I'd very much appreciate your response to the points of principle that I have made above. Should you conclude that the VOA has acted correctly could you confirm why please.

Should it be the case that you confirm the VOA decision I am not inclined to stop here as the points of principle (if not the law) are far too important and fundamental to let go. I should really appreciate your advice on where to turn next. I am considering an approach to my local MP and I'm certain the considered view of the ICO on both law and principle would be pre-requisite in his consideration."

10. The Commissioner considers that the scope of his investigation is to determine whether the VOA is entitled to rely on section 44(1)(a) to withhold the requested information it holds.

## **Reasons for decision**

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### **Section 44 – prohibitions on disclosure**

11. Section 44 of FOIA states that:

"(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it –

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court."

### **Is disclosure of the requested information prohibited by or under any enactment**

12. Information is exempt under section 44(1)(a) if its disclosure would breach any of the following:

- i. primary legislation (an Act of Parliament); or
- ii. secondary legislation (a Statutory Instrument).

13. The relevant legislation in this case is the Commissioners for Revenue and Customs Act 2005 (CRCA). Section 18(1) CRCA states:

“Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs”.

14. Section 23(1) of the CRCA states:

“Revenue and Customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000.....if its disclosure

(a) would specify the identity of the person to whom the information relates, or

(b) would enable the identity of such a person to be deduced.”

15. The Commissioner’s position on the interaction of FOIA at section 44 and the CRCA is well established via published decision notices. The VOA has referenced two particular decision notices in its internal review response, IC-115171-V2H2<sup>1</sup> and FS50427243<sup>2</sup>.

16. In both decision notices the Commissioner accepted that the VOA was entitled to withhold information relating to the valuation of certain properties and sales values, as to do so would allow the identity of a person to be deduced.

**The VOA’s position**

17. In its internal review, the VOA set out its position with regard to section 44(1)(a) of FOIA. It detailed that the relevant enactment is the CRCA and the relevant section of this Act is section 23(1)(b).

18. The VOA explained that section 23 of the CRCA was amended by section 19(4) of the Borders, Citizenship and Immigration Act 2009, to state that the VOA must disregard any permissive rights set out in sections 18(2) or (3) of the CRCA when considering an FOIA request. The VOA explained that this meant that although it can disclose information during the course of its work, when permitted by another Act, it cannot do so under FOIA.

19. Further, the VOA stated that section 10 of the CRCA gives the functions of the ‘Valuation Office’. Schedule 1 identifies the provision of ‘Valuation

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021709/ic-115171-v2h2.pdf>

<sup>2</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2012/720694/fs\\_50427243.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2012/720694/fs_50427243.pdf)

Lists in relation to Council Tax' and the 'Valuation of property' as former Inland Revenue functions transferred to HMRC. As outlined at paragraph 13 above, per section 18(1), VOA staff are officers of HMRC and are prohibited from disclosing information relating to VOA functions. Where section 18(1) of the CRCA applies, section 23 of the same Act sets out that the information will be exempt under section 44(1)(a) of FOIA, as detailed at paragraph 14 above.

20. The VOA clarified that it holds sales data for the postcode area referenced by the complainant in their request, however disclosure of this information would enable a person's identity to be deduced from the related addresses. The VOA stated that it would be possible to combine information gathered from other publicly available sources of information such as the electoral register, the Land Registry and local authority planning portals to identify a person, and in these circumstances section 23(1) of the CRCA is engaged. This means that there is a prohibition on disclosure in accordance with section 23 of the CRCA and accordingly section 44(1)(a) of FOIA is engaged.
21. In response to the complainant's comments on companies (Zoopla and Rightmove) that regularly publish historical sales price information, the VOA explained that these are private companies and therefore not bound by the CRCA.
22. In response to the complainant's assertion that the VOA holds a "wealth of historical sale price data", the VOA explained that sales data is provided to HMRC (and, in turn, the VOA) by the Land Registry and it does not hold sales data for every property in its database. The VOA provided the complainant with further information on how Council Tax banding is determined.
23. In response to the complainant's request for information used to inform the decision on the banding of their own property, the VOA advised the complainant that it may be able to disclose details it holds about their property under the UK General Data Protection Regulation (UKGDPR) and provided details on how to submit a Subject Access Request (SAR).

### **The Commissioner's position**

24. The Commissioner's remit is to consider whether a request for information under FOIA has been handled in accordance with FOIA. His statutory powers do not extend to the CRCA.
25. While he has given consideration to the points raised by the complainant in their submissions, the Commissioner considers that the VOA's response adequately explains the interaction between the CRCA and FOIA and that it is clear that the VOA cannot, under FOIA, disclose any information which would identify a person or enable identification of a person.

26. He accepts that the VOA has adequately explained that “complete detailed evidence... used by the Valuation Office to determine house sale prices in [postcode redacted]” will contain addresses, and that by disclosing this information it would enable the identity of a person to be deduced.
27. The Commissioner understands that some of the requested information is already publicly available, however, the Commissioner notes that the VOA said this cannot be taken into account when considering disclosure under the FOIA. It also said, the information in scope of each request must be considered solely against the requirement of the Act. The Commissioner acknowledges the statutory framework which the VOA operates and its application to the request.
28. As section 44(1)(a) is an absolute exemption the Commissioner is not required to consider any public interest arguments.
29. It is the Commissioner’s position that the VOA had satisfactorily established the criteria set out in the CRCA at sections 18 and 23 are clearly met in this case. In conclusion, the Commissioner’s decision is that the VOA was entitled to rely on section 44(1)(a) of FOIA to withhold the requested information.

**Right of appeal**

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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: 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)

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 .....**

**Jonathan Slee  
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Information Commissioner's Office  
Wycliffe House  
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SK9 5AF**