

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

### **Decision notice**

**Date:** 21 November 2024

**Public Authority:** Valuation Office Agency  
(Executive Agency of HM Revenue and Customs)

**Address:** 10 South Colonnade  
Canary Wharf  
London  
E14 4PU

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

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1. The complainant has requested information regarding property valuation details. The Valuation Office Agency (VOA) said it does not hold some of the information requested and that some of the information constituted the complainant's own personal information.
2. It withheld the remainder of the information under section 44(1)(a) of FOIA.
3. The Commissioner's decision is that the VOA is correct to refuse the information under section 44(1)(a) of the FOIA.
4. The Commissioner does not require further steps.

### **Request and response**

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5. On 8 April 2024, the complainant wrote to the VOA and requested information in the following terms:

"We are interested in receiving all valuation details including purchase prices over the years for [property address]. We understand the property has been sold 3 times since its construction in 1974. There is according to HM Land Registry data about a 1988 entry which they do

not have. As no 1991 price is available, please could you provide all costs and valuation records for this property..."

6. The VOA responded on 18 April 2024. It stated:

"Response to your request:

As required by section 1(1)(a) of the Act, and having carried out a reasonable search of our records, I confirm we do not hold sales or valuations at the time referenced, for the property mentioned.

Sales:

Since 2006 and onwards Stamp Duty Land Tax (SDLT) data is transmitted from HM Revenue and Customs (HMRC) direct to our database, when a relevant property transaction has taken place. SDLT data may contain financial/sale records but may not be held for every sale.

Valuations:

The Valuation Office Agency does not hold 'actual property valuations'. Instead, we must place each domestic property into a "band" within a range of values.

To decide the correct band, we look at the open market sales evidence of similar properties, in the locality, from around the valuation date set in law (1 April 1991). We compare these similar properties to the subject property, by looking at factors such as age, size, character and accommodation, and make sure the band is in line with them.

The band of some properties is disputed, and the independent Valuation Tribunal may decide the correct band. When this happens, the Listing Officer will follow the decision of the Valuation Tribunal.

Further information:

While we do not hold the specific information you asked for, we may hold some information about your property that you may find helpful. The appropriate legislation to disclose personal information is the UK General Data Protection Regulation, under a Subject Access Request. We will provide a separate response to ensure you are provided with information we hold about your property, that is relevant to its Council Tax band."

7. On 19 April 2024 the complainant requested an internal review. In their request the complainant expanded the original request and said:

"Under the ICO requirements I must let you know that your response shows no detailed message about

- (1) The 1991 valuation process and what was undertaken
- (2) Any pricing information which would have been used to determine the 1991 band from original 1974 & 1977 sales.

Therefore we ask for an internal review to make clear that which was asked.

We do not need bland statements as to the basic guidance but what actually happened at this property location in 1991 and how it was evaluated.

The government asks for evidence to be submitted. We ask the same so we can see what your original figures were and how they were achieved. We do know that local estate agents were used and simply drove down streets and batched properties of similar ilk without any inspection. This means that properties with larger rooms, extensions added or significant changes between the original construction and 1991 arrangement will not have been picked up.

You also have not shown the calculation of valuation process from 2021 to 1991. This on the price index suggests a lower band.

Nor is there any comment on why the price index is not considered as evidence when it is clear from the response provided, the VOA have no evidence to submit.

Therefore the following is required. This is not a new FOIA or SAR but the original again:

1. How the original 1991 valuation was determined and what led to a Band E valuation.
2. The actual process (such as estate agents driving up and down roads and batching similar properties together irrespective of individual and divergent difference) used in 1991 in some areas. This has been confirmed as occurring in the UK.
3. The process of 2021 valuation used to determine its 1991 value (which at £300,000 puts this property in a Band D. The addition of a shower will not be worth the wide banding to push from E to any other nor will it be sufficient to push from its banding D to E.

4. The strict evidence required (which I would be grateful if you can show is legally held in previous case law as to whether the admissibility or exclusion of evidence is justifiable.

We have officially asked for an internal review as the SAR & FOIA reveal very little in these respects. To put it simply, we cannot see the justification for banding if there is no recorded data to show the process were followed correctly and accurately and that subsequent post-dated evaluations are correct. From the very vague information provided we are gravely concerned."

8. In its internal review of 15 May 2024 the VOA said:

"I uphold the VOA's decision, explaining that information relating to historic sales is not held, nor do we hold actual valuations.

Looking at your request for an internal review, you have clarified your request was for details of how the Council Tax band was assessed for a property you have identified, and the process used to determine its value in 1991.

With this broader interpretation, I can tell you that while we hold some of this information, we cannot disclose it under the FOIA. I am sorry that we appear to have applied a narrower interpretation than that intended. Further consideration has been given to this under UK General Data Protection Regulation (UK GDPR); a separate response is being provided.

I have set out the reasons for my decision and addressed any other points you made below.

Your request for information under the FOIA of 8 April 2024:

"We are interested in receiving all valuation details including purchase prices over the years for

[Property address]

We understand the property has been sold 3 times since its construction in 1974. There is according to HM Land Registry data about a 1988 entry which they do not have.

As no 1991 price is available, please could you provide all costs and valuation records for this property."

Our response to your FOI request of 18 April 2024:

Section 1(1)(a) of the FOIA, says we should confirm whether the information sought is held. If held, we should disclose it - unless any exemptions apply.

Our response stated we do not hold sales or valuations for the period specified, for the property address provided. We advised that we do not hold sales data for every property, and we do not hold 'actual property valuations'. We provided an explanation of how we assess properties for Council Tax purposes.

We also considered your request under the UK GDPR as a Subject Access Request. This was to ensure you were provided with any personal information we hold about you. A separate response for this was provided on 18 April 2024.

Your request for an internal review of 19 April 2024:

"Under the ICO requirements I must let you know that your response shows no detailed message about

- (1) The 1991 valuation process and what was undertaken
- (2) Any pricing information which would have been used to determine the 1991 band from original 1974 & 1977 sales.

Therefore we ask for an internal review to make clear that which was asked.

We do not need bland statements as to the basic guidance but what actually happened at this property location in 1991 and how it was evaluated.

The government asks for evidence to be submitted. We ask the same so we can see what your original figures were and how they were achieved. We do know that local estate agents were used and simply drove down streets and batched properties of similar ilk without any inspection. This means that properties with larger rooms, extensions added or significant changes between the original construction and 1991 arrangement will not have been picked up.

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This on the price index suggests a lower band.

Nor is there any comment on why the price index is not considered as evidence when it is clear from the response provided, the VOA have no evidence to submit.

Therefore the following is required.

This is not a new FOIA or SAR but the original again:

- (1) How the original 1991 valuation was determined and what led to a Band E valuation.
- (2) The actual process (such as estate agents driving up and down roads and batching similar properties together irrespective of individual and divergent difference) used in 1991 in some areas. This has been confirmed as occurring in the UK.
- (3) The process of 2021 valuation used to determine its 1991 value (which at £300,000 puts this property in a Band D. The addition of a shower will not be worth the wide banding to push from E to any other nor will it be sufficient to push from its banding D to E.
- (4) The strict evidence required (which I would be grateful if you can show is legally held in previous case law as to whether the admissibility or exclusion of evidence is justifiable.

We have officially asked for an internal review as the SAR & FOIA reveal very little in these respects. To put it simply, we cannot see the justification for banding if there is no recorded data to show the process were followed correctly and accurately and that subsequent post-dated evaluations are correct. From the very vague information provided we are gravely concerned."

**The detailed response at internal review:**

I understand you want to obtain information relating to the valuation of the property address provided, alongside historic sales data. In your request for an internal review, you have also asked for the process used to band properties for Council Tax purposes, and the evidence required to review a band. I have provided explanations, addressing questions 2 and 4 outside of the FOIA on pages 4 and 5.

Our reply was correct in stating we do not hold historic sales data for the address provided, and that we don't hold actual valuations.

I have however, found some records that relate to how the property was assessed for Council Tax purposes.

While we hold this information for the specified property, we cannot disclose it under the FOIA, as it would enable a person's identity to be worked out from the address provided. This is explained at point 4 below.

In this case, the address could be used in combination with other publicly available sources of information such as the electoral register, the Land Registry and local authority planning portals to identify a person.

To ensure we provided you with information about your own property, we provided a separate reply under the UK GDPR.

When considering disclosure under the FOIA, we cannot take account that some of the requested information required may already be publicly available. The information in scope of each request must be considered solely against the requirements of the Act.

Under FOIA, a public authority cannot take into consideration why the requester would like the information or consider any benefit disclosure might bring to the individual, or the public more widely.

To help explain my decision further, I will set out the statutory framework we operate within:

- (1) The VOA is an Executive Agency of HMRC and collects and holds data relating to individual properties to undertake its functions. This includes the information relating to the specified property in scope of your request.
- (2) Section 10 of the CRCA sets out the functions of the 'Valuation Office'. Schedule 1 identifies the provision of 'Valuation Lists in relation to Council Tax' and the valuation of property' as former Inland Revenue functions transferred to HMRC.
- (3) VOA staff are officers of HMRC and are prohibited from disclosing information relating to VOA functions under section 18(1) of the CRCA. The information you have requested is held for VOA functions and this means that section 18(1) of the CRCA applies.
- (4) When section 18(1) of the CRCA applies, section 23(1) of the CRCA then specifies that under section 44(1)(a) of the FOIA, the VOA must not disclose information when it would either:

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

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

Section 23(1)(b) of the CRCA includes when a 'person' can be deduced from property data such as an address. The term 'person' means legal entities such as a company as well as individuals.

- (5) 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. This means that although we can disclose certain information during the course

of our work, when permitted by another Act, we cannot do so under the FOIA.

- (6) Section 19 of the CRCA makes it a criminal offence for any VOA member of staff to disclose any 'person's' information under the FOIA.
- (7) Section 44 of the FOIA is an absolute exemption, meaning there is no requirement to assess any public interest arguments for and against disclosure.

**General explanations to your points 2 and 3, provided outside of the FOIA:**

The process used to band properties for Council Tax purposes. The initial banding exercise was carried out in 1991/1992. The VOA was responsible for the completion of the exercise and was assisted in its task by outside contractors. It required the allocation of a band to every known dwelling in England and Wales in accordance with Section 1 part 1.2 of the Council Tax Manual. These bands were then entered into the Valuation List ready for publication in March 1993. Further information is available in our published Council Tax Manual here: [www.gov.uk/guidance/council-tax-manual/section-1-introduction-and-essential-background](http://www.gov.uk/guidance/council-tax-manual/section-1-introduction-and-essential-background).

Once the original banding exercise was complete, the banding decisions were input electronically onto our database to populate the Council Tax list. The hardcopy documents were then disposed of in line with our retention and disposal requirements. The information we hold about the original bandings is therefore limited to the fields required, commonly the property details and Council Tax band.

For Council Tax purposes legislation sets out that all homes are assessed to reflect their open market value at a valuation date set in law, which in England is 1 April 1991. This is so that all properties, including newly built ones, are valued on a fair and consistent basis. We refer to relevant property sales and also look at the bands and attributes of other properties in the locality (in terms of characteristics such as age, location, size and character etc.). When appropriate we will consider any independent Valuation Tribunal decisions made on similar properties. All of this information is taken together to arrive at a decision and to help us maintain an accurate valuation list.

Council Tax bands are based on evidence of actual sales of similar properties at or around 1 April 1991. Where no sales evidence exists, case law explains how other factors may be considered. This is referred to as 'using the tone of the list'. This concept is set out in the Council Tax Manual at Practice note 1 Section 4.16 here: [Council Tax Manual - Council Tax: practice notes - Guidance - GOV.UK](#)



You can find out more about how Council Tax bands are assessed here:  
[www.gov.uk/guidance/understand-how-council-tax-bands-are-assessed](http://www.gov.uk/guidance/understand-how-council-tax-bands-are-assessed).

Schedule 1 to the Interpretation Act 1978 -  
<http://www.legislation.gov.uk/ukpga/1978/30/schedule/1> and paragraph 110 of the CRCA Explanatory Notes states 'The term "person" includes both natural and legal persons, and, for example, the tax affairs of a limited company are also protected by the provisions of the subsection.'

#### House price indices.

Indices reflect the sales in house prices over a wide geographical area, and their use is not a reliable way to determine 1991 values for specific properties or localities. We refer to actual sales evidence, close to the valuation date, as explained above.

#### The evidence required to review a property's Council Tax band.

As set out in legislation, there are limited circumstances and specific timeframes in which it is possible to formally challenge a Council Tax band. The most common is when someone becomes liable for the Council Tax on a property for the first time; they then have six months within which to make a formal challenge.

When a taxpayer no longer has formal challenge rights, we can still review their property's Council Tax assessment, but only if we receive new and compelling evidence which indicates the band is incorrect. This is because we have a statutory duty to maintain accurate Valuation Lists. These reviews do not carry the right to have an appeal heard by the independent Valuation Tribunal.

The evidence we need may include any of the following:

- Evidence of identical, or very similar properties to the subject property, in the locality (within 1/4 mile of the property, this can be extended to ten miles for rural areas) which are in a lower band. We will need full address(es) including the postcode(s) of the similar properties and/or
- Sales evidence in the locality, very close to the valuation date of 1 April 1991 (no more than two years either side of this date), which suggests the property might be incorrectly banded, and/or
- Evidence that an error was made when the property was banded.

Further information can be found at: [Challenge your Council Tax band: Evidence that supports your challenge - GOV.UK](#)

#### **ICO decisions**

The ICO has considered and upheld the application of the exemption in section 44 of the FOIA to requests for information held by the VOA on several occasions.

The ICO's Decision Notices are published on their website here: [| Search | ICO](#)

The following cases relating to property information held by the VOA may be of interest:

**IC-136138-L6H7** – The requester sought information relating to the valuation history of a specified address for the period of 1985 to 1995. The VOA confirmed that it held some of the information within the scope of the request. However, it refused to disclose it relying on section 44(1)(a) of FOIA. The Commissioner's decision was that the VOA was entitled to rely on section 44(1)(a).

**IC-126027-W1C4** – The requester sought information relating to the valuation of their property in determining its Council Tax band. The Commissioner's decision was that the VOA was entitled to withhold this information under section 44(1)(a).

**To sum up:**

- Having reviewed your request I confirm that:
- The VOA does not hold the sales details sought, nor does it hold a valuation.
- As clarified, the VOA holds some information relating to how the property is assessed for Council Tax.
- This property information is held in connection with VOA's functions.
- The information is withheld from disclosure under section 44(1)(a) of the FOIA as section 23(1)(b) of CRCA applies to "person" identifying information.
- Section 44 of the FOIA is an absolute exemption and does not require any public interest arguments to be considered.
- As you expressed dissatisfaction to both replies, under the FOIA and UK GDPR, your request for an Internal Review has additionally been considered under the terms of the UK GDPR.
- We responded to your request within 20 working days of receipt, as required by section 10 of the FOIA.
- We provided details of the FOIA internal review procedure and your right to complain to the Information Commissioner, as required by sections 17(1) & 17(7) of the FOIA.
- The VOA refusal notice complied with all other requirements of FOIA."

## Scope of the case

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9. The complainant contacted the Commissioner on 6 June 2024 to complain about the way their request for information had been handled.
10. The complainant's grounds of complaint are that the prohibition at section 18(1) of CRCA is qualified by certain conditions in section 18(2), a number of which he considers to be met in this case, and therefore his position is that the information is not exempt under section 44(1)(a) of FOIA.
11. The Commissioner wrote to the complainant on 16 October 2024 advising that, although he could accept the complainant's case for review, the information requested was exempt under FOIA and invited the complainant to consider withdrawing their case based on the decision notices he had issued about valuation data.
12. The complainant wrote on 17 October 2024 and requested a decision notice to be issued by the Commissioner.
13. The Commissioner will not consider matters relating to VOA's decision under GDPR and DPA 2018 provisions as this does not fall within the scope of the current investigation.
14. The Commissioner considers that the scope of his investigation is to determine whether section 44(1)(a) of FOIA is engaged.

## Reasons for decision

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### Section 44 – prohibitions on disclosure

15. 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.”
16. Section 44 of FOIA is an absolute exemption. This means that if information is covered by any of the subsections of section 44 it is exempt from disclosure. It is not subject to a public interest test.

17. The relevant legislation in this case is the Commissioners for Revenue and Customs Act 2005 (CRCA).<sup>1</sup>

18. Section 18(1) of the 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.”

19. Section 23(1) CRCA states amongst other things:

“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.

(2) Except as specified in subsection (1), information the disclosure of which is prohibited by section 18(1) is not exempt information for the purposes of section 44(1)(a) of the Freedom of Information Act 2000.”

20. 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-136138-L6H7<sup>2</sup> and IC126027-W1C4<sup>3</sup> which are broadly similar requests where the Commissioner has upheld the VOA’s position in respect of section 44(1)(a).

21. The VOA is an Executive Agency of HMRC and collects and holds data relating to individual properties to undertake its functions. Section 10 of the CRCA sets out the functions of the ‘Valuation Office’. Schedule 1 identifies the provision of ‘Valuation Lists in relation to Council Tax’ and the valuation of property’ as former Inland Revenue functions transferred to HMRC.

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<sup>1</sup> [Commissioners for Revenue and Customs Act 2005 \(legislation.gov.uk\)](http://legislation.gov.uk)

<sup>2</sup> [IC-136138-L6H7 \(ico.org.uk\)](http://ico.org.uk)

<sup>3</sup> [IC-126027-W1C4 \(ico.org.uk\)](http://ico.org.uk)

22. The VOA has set out its position with regard to section 44 of FOIA. It has detailed that the relevant enactment is the CRCA and the relevant section of that Act is section 23(1).
23. The VOA explained, in its response and internal review, that the requested information relates to a function of the VOA, namely, the provision of 'Valuation Lists in relation to Council Tax' and the 'valuation of property'; accordingly it is covered by section 18(1) of the CRCA. When section 18(1) CRCA applies, section 23 of the same Act sets out that the information will be exempt under section 44(1)(a) if either of the conditions at section 23(1) are met.
24. The withheld information is held in connection with specific property valuations which is a function of the public authority.
25. The requested information is therefore prohibited from disclosure under section 18(1) of the CRCA by virtue of being held in connection with a function of the public authority.
26. Furthermore, the public authority is specifically prohibited from disclosing the withheld information under FOIA by virtue of section 23(1) of the CRCA because its disclosure would enable a person's identity to be deduced when linked with other information from publicly available sources (e.g. electoral register and online services) to identify the 'person' associated with the address.
27. The VOA went on to explain that it is possible that a person's identity can be deduced from the information when used in combination with publicly available information. The VOA has argued that disclosure of this information is prohibited under section 23(1) of the CRCA and accordingly, section 44(1)(a) of the FOIA is engaged.
28. Therefore, under section 23(1) of CRCA, information prohibited from disclosure by virtue of section 18(1) of CRCA is specifically designated as exempt from disclosure under section 44(1)(a) FOIA if its disclosure would identify the person to whom it relates or would enable the identity of such a person to be deduced.
29. In order to clarify further, the VOA has explained to the complainant that the CRCA was amended in 2009 by virtue of section 19(4) of the Borders Citizenship and Immigration Act 2009 (BCIA). This created section 23(1)(a) and meant that the VOA must disregard any permissive legal rights to disclose any property or person identifying information which exists in considering any request under FOIA.
30. While there are some circumstances set out under section 18(2) and section 18(3) of CRCA, in which this prohibition does not apply, these

are not relevant to FOIA as the scope of the prohibition is limited in relation to FOIA disclosures, by section 23 of CRCA.

31. Section 19 of the CRCA, also makes it a criminal offence for any VOA member of staff to disclose any 'person's' information under the FOIA.
32. The Commissioner accepts that disclosing the valuation history would enable the identity of the person(s) to whom they relate, to be deduced when combined with other information from publicly available sources.
33. The Commissioner therefore finds that VOA was entitled to rely on section 44(1)(a) FOIA as the basis for not disclosing the withheld information. The exemption is absolute. This means that there is no requirement to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the requested information.

## Right of appeal

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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: 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)

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.

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