

**Information Governance Team**

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Hackney  
London  
E8 1DY

FOI Reference: **30494858**

Email: [foioc@hackney.gov.uk](mailto:foioc@hackney.gov.uk)

Date: 10 January 2025

Mr Owen Boswarva

Dear Mr Boswarva

**Freedom of Information Act 2000**

This request is being handled under the Freedom of Information Act 2000 received 10 December 2024.

**Your request states:**

*I would like to request the Council's current list of all domestic properties within the Hackney Council area, including (at minimum) the full address, the assigned Council Tax band, the Council's property reference, and the Unique Property Reference Number (UPRN) for each property on the list.*

**The Council's response**

We are withholding that information since we consider that the following exemption applies to it. Exemption Section 31 and Section 41.

**The information that you have requested is exempt under section 31(1)(a) 'Law enforcement', of the Freedom of Information Act 2000, which states:**

**Information which is not exempt information by virtue of section 31 is exempt information if its disclosure under this Act would, or would be likely to, prejudice the prevention or detection of crime.**

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**We have applied Section 31 (1) (a) to your request because of the risk of increased crime that would likely occur if a list of empty properties was released to the wider public under a freedom of information request.**

**To use this exemption we are required to undertake a public interest test. The matters which were considered in applying the public interest test are as follows:**

**Factors in favour of disclosure**

- *We accept that there is some public interest in knowing how local properties are used and occupied and that such information may be useful for a variety of purposes including, for example, demographic research.*
- *We also understand the pressing issue of bringing empty properties back into use where this is possible.*

**Factors in favour of withholding**

- *Empty properties are often associated with criminal activity from organised local gangs and whilst squatting itself is not an offence, it is associated with criminal activity.*
- *Disclosure of the list would be of use to squatters and would, on a balance of probability, lead to significant harm in the form of criminal activity such as vandalism.*
- *It is also likely that organised gangs will use the information for criminal purposes. Further, such properties may be exposed to a greater risk of arson or criminal damage*

**Balance of the Public Interest Test**

*In the case of the First-tier Tribunal on Information Rights (EA/2018/0176) between Suresh Singh and The Information Commissioner and The London Borough of Hackney, the Tribunal unanimously dismissed the Appeal, and confirmed that section 31(1) is engaged with respect to publishing the locations of empty properties in the borough. The Tribunal judges found a real and significant risk that property crime would be made easier and therefore more likely to occur by the release of the list.*



*They also concluded that there is a substantial public interest in not making crime easier.*

*We consider that there is a greater public interest in the withholding of the information due to the safety considerations of the public. This concurs with the Tribunal's ruling that the relatively limited public interest in disclosing the list is outweighed by the significant public interest in maintaining the exemption.*

*It is therefore also considered that the greater public interest lies in not providing the information at this time. In coming to that conclusion, the public interest in providing the information has been carefully weighed against any prejudice to the public interest that might arise from withholding the information; in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.*

#### **Section 41 – Information provided in confidence**

**Section 41 of the Freedom of Information Act states:**

***(1). Information is exempt information if-***

***(a) it was obtained by the public authority from any other person (including another public authority), and***

***(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.***

**The Council has taken into account the following documents and decisions relevant to this exemption:**

***1. Information Commissioners Freedom of Information Act – Awareness Guidance 2 – “Information provided in confidence”***

***2. Information Commissioners “Freedom of Information Act – the duty of confidence and the public interest”***

**The above documents can be found on the Information Commissioner's website at [www.ico.gov.uk](http://www.ico.gov.uk).**



**The Council has applied section 41(1) to the part of your request that asks for specific account details, account-holder name, occupancy information and information relating to reliefs. This information was obtained by the Council from both individuals and companies and the Council considers that disclosure of information not already in the public domain could constitute an actionable breach of confidence.**

**The Council also considers that the information has the necessary quality of confidence. It is recognised in English law that an important duty of confidentiality is owed to taxpayers and this is known as “taxpayer’s confidentiality”. It is a long-established principle of common law, protecting taxpayers’ affairs against disclosure to the public, and has been recognised to be of the utmost importance when dealing with the administration of taxes and rates.**

**The Council is satisfied that the requested information at issue here is not trivial, nor is it available by any other means.**

**The duty of confidence is not absolute, and the courts recognise that confidential information may be disclosed where there is an overriding public interest in disclosure, or if the person to whom the duty of confidence is owed consents to the disclosure.**

**In the context of this request consent has not been provided. As to whether there is an overriding public interest, the Information Commissioner states in his guidance listed at 1 above that: “the courts have taken the view that the grounds for breaching confidentiality must be valid and very strong. A duty of confidentiality should not be overridden lightly”.**

**The Information Commissioner has produced further guidance upon the duty of confidence and the public interest test, listed at 2 above. The Council has had particular regard to the content of this guidance in dealing with your request.**



**It is stated at page 2 of the guidance that “the public interest test within the duty of confidence assumes that information should be withheld unless the public interest in disclosure outweighs the public interest in maintaining the duty of confidence”.**

**Ratepayers provide information (including names and addresses) to the Council in confidence and receive rates calculations in confidence. They have a legal expectation that these confidences will be maintained. Disclosure of rate or tax related information into the public domain may discourage the provision of full information to the Council as it would remove that expectation that such confidences would be respected.**

**Furthermore there is a public interest in maintaining trust and preserving a free flow of information to the Council where this is necessary for the Council to perform its statutory functions relating to the administration of both Business Rates and Council Tax. Such functions are undertaken for the benefit of the public.**

**Although there may be a public interest in scrutinising how the Council administers its business rates, the Council is unable to identify any more specific or weighty interests arising out of the particular request made.**

**The request for disclosure is therefore refused under section 41(1) of the FOIA.**

**This response therefore acts as a refusal notice under section 17 of the FOIA.**

### **Internal Review Procedure**

If you are dissatisfied with this response and wish to request an internal review, please write to the Information Governance Team as a reply to this message within 40 working days. Any requests received after this time will not be considered. Please ensure your reference number is quoted at all times.



We aim to complete all internal reviews within 20 working days, however we may extend this by a further 20 working days in limited circumstances.

If you remain dissatisfied with the handling of your request, you have the right to contact the Information Commissioner's Office within six weeks of receiving the outcome of the internal review.

The Information Commissioner's Office can be contacted at:

<https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>.

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

The Information Commissioner's Office Telephone:  
0330 123 1113

We will now close your request as of this date.

Yours sincerely

***IGT***

**Information Governance Team  
London Borough of Hackney**

*Details of how the Council processes personal data can be found in our Privacy Statement at <https://hackney.gov.uk/privacy>*

