

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 28 November 2011

**Public Authority:** Valuation Office Agency  
**Address:** Wingate House  
Shaftesbury Avenue  
London  
W1D 5BU

#### Decision (including any steps ordered)

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1. The complainant made a freedom of information request to the Valuation Office Agency for information related to its valuation of properties belonging to his late father. The Commissioner has investigated the complaint and found that the information is exempt under section 44 (Prohibitions on disclosure) of the Act by virtue of section 18(1) of the Commissioners for Revenue and Customs Act 2005. The Commissioner requires no steps to be taken.

#### Request and response

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2. The complainant had previously been in correspondence with the Valuation Office Agency (VOA) in relation to its valuation of two properties belonging to his late father. In particular the complainant was trying to establish the circumstances that led to the VOA giving two (different) valuations for the same properties. This led to the complainant making an information request to the VOA on 23 December 2010 in which he referred to the FOIA. At this stage the complainant said that he wanted to know more about the "procedures and events leading up to the two valuations".
3. The VOA responded to the request on 24 January 2011 when it informed the complainant that the information it held was exempt from disclosure under section 44 of the FOIA which provides for an exemption where disclosure is prohibited under any other law or enactment. It explained that the relevant statutory prohibition was section 18(1) of the Commissioners for Revenue and Customs Act 2005 ("the CRCA") which

prohibits the disclosure of information which is held by HM Revenue and Customs in connection with a function of Revenue and Customs.

4. The complainant subsequently asked the VOA to carry out an internal review of its handling of his request and it presented its findings on 24 March 2011. First of all the VOA explained how it was interpreting the complainant's request. It said that having reviewed his correspondence it was taking the request as a requirement for the following:
  - An explanation of how VOA internal processes allowed two caseworkers to come independently to two different opinions of value on the same property
  - Information used in determining the valuation in questions which would explain the reasons for the different figures
  - Copies of letters from the VOA to the executor asking for their permission to release certain details to the complainant about the case
5. At this point the Commissioner would say that he considers this to be a reasonable interpretation of the complainant's request taking into account the context in which the request was made. The Commissioner also notes that the complainant did not object to this interpretation at the time or when contacted by the Commissioner.
6. The internal review also upheld the earlier refusal of the request under section 44 of the FOIA by virtue of section 18(1) CRCA and further explained why the exemption applied.

### **Scope of the case**

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7. On 28 March 2011 the complainant contacted the Commissioner to complain about the VOA's refusal of his request under section 44 of the Act.

### **Reasons for decision**

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8. The VOA has refused the complainant's request under section 44 of the Act which provides that information is exempt if its disclosure is prohibited under any other law or enactment. The statutory prohibition claimed by the Valuation Office Agency is section 18(1) of the CRCA.
9. Section 18(1) CRCA provides that:

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

10. However, section 18(1) only acts as a statutory prohibition where section 23(1) of the CRCA is also satisfied. This part of the legislation provides that the section 44 exemption will only apply where 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.*

11. In order for the statutory prohibition to apply the Commissioner will first need to establish that the requested information is held by Revenue and Customs in connection with one of its functions. The VOA is an executive agency of HM Revenue and Customs and its officials are classed as officers of HM Revenue and Customs under section 10(1) of the CRCA. The VOA has also confirmed to the Commissioner that the information it holds is held for the function of providing a valuation for inheritance tax purposes in accordance with section 10 of the CRCA. Therefore section 18(1) applies. However, in order for section 18(1) to act as a statutory prohibition for the FOIA the test in section 23(1) must also be satisfied.
12. When investigating the complaint the Commissioner asked the VOA to confirm which person or persons the information relates to and to provide a written undertaking that disclosure of the information would identify these person(s). In response the VOA clarified the information it held and explained that in response to the first bullet point of the request as set out in paragraph 7 above, it had provided the complainant with a general explanation of its procedures. However, it said that it could not disclose any information specific to the particular case which was the subject of his request as to do so would reveal the identity of certain persons. It confirmed that the "persons" concerned were the estate of the complainant's late father and the executor of the estate. It is important to note here that in this context "person" includes both natural and legal persons and so includes, for example, companies and other organisations. In addition the VOA suggested that disclosure may also identify further persons because its valuation of the complainant's late father's properties involved the use of comparable valuation evidence including third party sales and associated property details. The VOA explained that such information can be linked back to current or former owners.

13. The VOA's Director of National and Central Services, a Senior Civil Servant (SCS), provided the Commissioner with an assurance in writing that all the papers and files related to the complainant's request had been reviewed and that it had found that disclosure of any of the requested information would specify the identity of a person or enable the identity of the person to be deduced. The Commissioner has already established that the information was held by HM Revenue and Customs for a function of Revenue and Customs. In light of the assurances provided by the VOA the Commissioner is satisfied that disclosure would also meet the test set out in section 23(1) of the CRCA. Consequently the Commissioner finds that the requested information is exempt from disclosure under section 44 of the Act. Section 44 is an absolute exemption and therefore there is no public interest test to apply.

## Right of appeal

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14. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

15. 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.
16. 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** .....

**Pamela Clements**  
**Group Manager, Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
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