

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 October 2015

**Public Authority:** London Borough of Lambeth

**Address:** Town Hall  
Brixton Hill  
Lambeth  
SW2 1RW

#### Decision (including any steps ordered)

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1. The complainant has requested information from the London Borough of Lambeth ("the Council") relating to the Rateable Values of the Vauxhall Gardens Estate in Kennington/Vauxhall.
2. The Commissioner's decision is that the Council has correctly applied section 40(2) of the FOIA to the information withheld under the scope of request 2.
3. The Commissioner requires the Council to take no steps.

#### Request and response

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4. On 1 May 2015, the complainant wrote to the Council and requested information in the following terms:
  1. *Please provide a complete list of blocks that are a part of the Vauxhall Gardens Estate in Kennington/Vauxhall, along with each block's respective Rateable Value used for Service Charge and Major Work contribution calculation.*
  2. *For each block – please provide a breakdown of dwellings and their respective Rateable Values used for Service Charge and Major Work contribution calculation.*

5. The Council responded on 5 June 2015. It provided the complainant with a list of blocks with the block Rateable Value and the number of dwellings within each block with similar rateable values.
6. The complainant asked for an internal review to be carried out on 5 June 2015. He explained that the information provided was of no use and completely unintelligible.
7. The Council responded on 8 June 2015 and provided the complainant with the information in the form of an excel spreadsheet.
8. The complainant contacted the Council later the same day. He advised that the information provided detailed the block values but it did not let him identify the rateable value by property. He subsequently asked the Council to provide him with the rateable value for each property rather than in the summarised version provided in its initial response.
9. The Council responded to the complainant and advised him that the rateable value of individual properties was considered to be personal data as it was information relating to the owners/occupiers of the properties on the Vauxhall Gardens Estate.
10. Upon receiving this, the complainant replied to the Council. He informed the Council that its response conflicted with a previous request for similar information.
11. The Council responded on 9 June 2015 and explained that it was unable to revisit the rationale behind the previous response to a similar request for information. It further confirmed that it was maintaining its application of section 40(2) of the FOIA to the information withheld within the scope of request 2.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 22 June 2015 to complain about the way his request for information had been handled.
13. Specifically he disputed the Council's application of section 40(2) to withhold some of the information sought in request 2.
14. The Commissioner has had to consider whether the Council was correct to apply section 40(2) of the FOIA to withhold information falling within the scope of request 2.

## Reasons for decision

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15. Section 40 of the FOIA specifies that the personal information of a third party must not be disclosed if to do so would contravene any of the data protection principles.
16. Taking into account his dual role as regulator of both the FOIA and the Data Protection Act 1998 (the "DPA") the Commissioner has considered whether the Council was correct to withhold the rateable values for individual properties on the basis that it is personal data.

### Is the withheld information personal data?

17. Personal data is defined by section 1 of the Data Protection Act 1998 ("the DPA") as:

*"...data which relate to a living individual who can be identified—*

*(a) from those data, or*

*(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the data controller or any person in respect of the individual..."*

18. In order for the exemption to apply the information being requested must constitute personal data as defined by section 1 of the DPA.
19. In this case, the Commissioner is satisfied that if the exempt information was disclosed, it is likely to lead to the identification of individuals.
20. In coming to this view, the Commissioner has noted that the complainant is highly likely to have knowledge of the estate in question. The Commissioner considers that this will be a small geographical location and it is likely that the individuals living in the dwellings will be known or could be ascertained by the complainant.

### Would disclosure breach the data protection principles?

21. The data protection principles are set out in schedule 1 of the DPA. The Commissioner considers that the first data protection principle is most relevant in this case. The first principle states that personal data should only be disclosed in fair and lawful circumstances, the conditions of which are set out in schedule 2 of the DPA.
22. The Commissioner's considerations below have focused on the issues of fairness in relation to the first principle. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of

the data subject and the potential consequences of the disclosure against the legitimate public interest in disclosing the information.

### **Reasonable expectations of the data subject**

23. When considering whether a disclosure of personal data is fair, it is important to take account of whether the disclosure would be within the reasonable expectations of the data subject. However, their expectations do not necessarily determine the issue of whether the disclosure would be fair. Public authorities need to decide objectively what would be a reasonable expectation in the circumstances.
24. The Council has explained that although it has not consulted all leaseholders on the estate, it is reasonable to assume that most leaseholders would expect details concerning the size of their property and the amount of service charges they pay annually or in relation to major works schemes to remain private.

### **The consequences of disclosure**

25. The Council did not provide much detail into the consequences of disclosure other than it may cause distress to some leaseholders.

### **The legitimate public interest**

26. The Commissioner considers that the public's legitimate interests must be weighed against the prejudices to the rights, freedoms or legitimate interests of the individual concerned. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
27. The Commissioner acknowledges that the complainant does have an interest in the requested information. However the Commissioner must consider the legitimate public interest in the requested information rather than the interests of the requester. In this case, the Commissioner considers that the information that the Council has already disclosed goes a long way to satisfy the public interest. He further considers that releasing the rateable value for individual properties does not add any value to the information that has already been released.
28. The Commissioner considers that the Council has struck the right balance between the individual's rights, freedoms and legitimate interests of leaseholders and the legitimate interest in the public. The Commissioner considers that individual dwellings and their respective rateable values is not information that would be of value to the greater public.

29. On this basis, the Commissioner has therefore determined that the Council correctly applied section 40(2) of the FOIA to withhold information falling within the scope of request 2.

## 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**