

Derby City Council – Response
ID Reference FOI641598049
Date 29/08/2024

Under the Freedom of Information Act of 2000, could you please provide me with the most up-to-date list of all incorporated companies within the authorities billing area that have a council tax credit against their account.

Please note, I am not requesting business rates data but council tax accounts held by companies such as charities e.g housing associations and property developers etc.

Could you please including the following data in the response:

(A) The company name to which the account in credit relates to.	The Council confirms it holds information that falls within the description of your request.
(B). The value of overpayment.	However, in this instance, the following exemption applies ...
(C). The years(s) the overpayment relates to.	<b>Section 31(1)(a) : Law Enforcement – prevention and detection of crime</b>
D) The property address the credit relates to.	This exemption applies because disclosure of this information would be likely to prejudice the prevention or detection of crime.
(E) Whether the account is a live/open account or a closed account.	As this exemption is ‘qualified’ we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exemption.
(F)The date that the data was generated.	<p><b>(a)the prevention or detection of crime</b></p> <p>In deciding whether this exemption applied in this case we first conducted the three stage prejudice test as set out in the Information Tribunal’s decision in the case of Christopher Martin Hogan and Oxford City Council v the Information Commissioner.</p> <p>We have also taken into account Information Commissioner Decision Notice for</p>

	<p>Wandsworth Council in February 2017 <a href="#">[FS50619844]</a> that information about credit balances is exempt for disclosure under Section 31(1)(a) - Law enforcement of the Freedom of Information Act 2000.</p> <p>Disclosure of this information would be likely to prejudice the prevention or detection of crime.</p> <p><b>Public Interest Test</b></p> <p><b><u>Prejudice test</u></b></p> <p><b><i>1. Applicable interest within the relevant exemption</i></b></p> <p>In this case the request relates to a list of company accounts with council tax credit. Disclosure of this information would be likely to prejudice the prevention of crime because it would allow potential fraudsters to use the information to identify companies entitled to claim credits on their accounts. Once such a company had been identified, they would be at risk of identity theft by fraudsters to claim the credits balances.</p> <p><b><i>2. Causal link between the disclosure and prejudice claimed</i></b></p> <p>We believe there is a clear causal link between disclosing the specific details about companies with council tax credits and the prejudice to the prevention of crime. Disclosure under FOI is to the world at large</p>
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	<p>and if this information were to be placed into the public domain potential fraudsters would likely use the information to identify companies who were entitled to claim council tax credits on their accounts. Once such a company is identified, there would then be a number of options available for potential fraudsters to fraudulently claim funds, such as:</p> <ul style="list-style-type: none"> <li>• Stealing the identity of either the company, before posing as them to claim the funds</li> <li>• Setting up accounts in the names of the companies in order to seek repayment</li> <li>• Posing as the Council in order to approach the company with details in order to acquire confidential information such as banking details.</li> </ul> <p>There is therefore a clear causal link between the release of the information and the prejudice claimed as there are clearly a number of avenues available for fraudsters to use the information in order to pursue fraudulent activity. There is potentially large sums of money involved, which would clearly make it worthwhile to set up an organised fraud using the requested information.</p>
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### ***3. Likelihood of the prejudice***

Thirdly we have considered the likelihood of the prejudice highlighted occurring should the information be released. We consider that it is very likely that the prevention of crime will be prejudiced should this information be released.

Firstly the information is being released into the public domain and therefore is open to a range of individuals who may have criminal intentions.

This information would be invaluable to them and could assist them in committing fraud and there are a number of potential avenues for fraudsters to claim funds using this information as highlighted above.

This twinned with the fact that there may be significant amounts of money in relation to the businesses provide a clear incentive for fraudsters to try and use the information in this way.

Given how useful this information would be and the range of crimes that could be assisted should this information be released we believe it is very likely that the prejudice highlighted would occur should the information be released.

#### **Other considerations**

There are new and evolving sophisticated methods for defrauding large quantities of money that fraudsters use daily which is well documented in the local press about falsifying details on the Companies House



	<p>database so that they could take on the company's Reference: identity. Fraudsters carry out 'company hijacking' by falsifying details on statutory paper forms to have a legitimate company's registered address or take on the company's identity. Disclosure of the detailed information requested would likely provide these fraudsters with new targets.</p> <p><a href="#"><u>Corporate-related identity, long/short firm and insolvency fraud   Metropolitan Police</u></a></p> <p><a href="#"><u>Reporting scams pretending to be from Companies House - GOV.UK (www.gov.uk)</u></a></p> <p><b><u>Public Interest test</u></b></p> <p><b>Factors in favour of disclosure</b></p> <ul style="list-style-type: none"> <li>• Withholding the information could be perceived as the council attempting to retain monies that belong to the public.</li> <li>• It is in the public interest to be open and transparent about our use of public funds.</li> <li>• It is also in the public interest to provide some transparency regarding the records we hold in respect of the administration of council tax. This could be of interest to the minority of people who are due a refund, but have somehow failed to receive the notifications that money is due to them</li> <li>• In addition there are also benefits to the public in releasing this information</li> </ul>
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	<p>in terms of leading to a better informed public and to encourage public debate. It would also give the public more detailed information regarding council tax and credit balances, which is in the public interest.</p> <p><b>Factors in favour of maintaining the exemption</b></p> <ul style="list-style-type: none"> <li>• The information relates to companies with council tax credits on their accounts. As stated above there is, in our opinion, very likely that should this information be disclosed into the public domain it would allow potential fraudsters to identify companies entitled to claim council tax credits on their accounts. Putting them at risk of identity theft to claim the credits.</li> <li>• There is a public interest in ensuring that monies from the public purse, such as council tax credits on business accounts, are not fraudulently claimed and also a public interest in not making it easier for fraud to be committed.</li> <li>• Companies with accounts in credit can claim any refunds from the Council. Disclosure of the requested information would result in additional verification processes needing to be implemented, at additional cost to the public which appeared disproportionate to the benefits that would accrue from disclosure.</li> </ul>
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	<ul style="list-style-type: none"> <li>• The additional verification procedures would also be likely to slow the verification process, resulting in detriment to the genuine ratepayer which would be contrary to the public interest. In relation to any new verification processes that might be needed, these would be likely to require the production of additional documents by those claiming a rebate which would place a new administrative burden on the majority of those legitimate claimants that did not currently exist. This would be compounded by the fact that the level of scrutiny of those documents would be higher than at present, given the increased suspicion that some of the claims (and associated documents) might well be fraudulent. The result would be that a new verification process would be likely to slow the rate at which credit balance claims could be considered and refunded, causing delay in all refunds and the likelihood of complaints, which would further burden our limited resources.</li> <li>• Disclosure of the requested information would result in the need to implement disproportionate steps and additional expense to the public purse to counter an increased risk of fraud that does not exist at present.</li> <li>• The cost consequences of a successful fraudulent claim would mean that the council would: <ul style="list-style-type: none"> <li>- have incurred the cost of paying out to the fraudster;</li> <li>- remain liable to the legitimate rate payer for an equivalent amount, raising</li> </ul> </li> </ul>
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	<p>the prospect of paying out twice; and</p> <ul style="list-style-type: none"> <li>- be faced with the cost (legal and incurrence of internal management time) of seeking to recover the funds wrongly paid to the fraudster.</li> <li>- It would not be in the public interest to expose it to such potential costs and expenses, given that they would be funded from the public purse. It is considered that the greater public interest, therefore, lies in not providing the information at this time.</li> </ul> <p><b><u>Evaluation</u></b></p> <p>On balance our view is that whilst there is a public interest in this information being released there is a much stronger public interest in this information being withheld. As such we are unable to provide you with the information requested by virtue of Section 31(1)(a) Freedom of Information Act 2000.</p>
Please can you provide the most up to date data held.	

**Please note, the following applies, if the response includes council officers (or other officers) names.**

If you are a company that intends to use the names and contact details of council officers (or other officers) provided for direct marketing, you need to be registered with the Information Commissioner to process personal data for this purpose. You must also check that the individual (whom you wish to contact for direct marketing purposes) is not registered with one of the Preference Services to prevent Direct Marketing. If they are you must adhere to this preference. You must also ensure you comply with the Privacy Electronic and Communications Regulations (PECR). For more information follow this Link [www.ico.org.uk](http://www.ico.org.uk)

For the avoidance of doubt the provision of council (and other) officer names and contact details under FOI does not give consent to receive direct marketing via any media and expressly does not constitute a 'soft opt-in' under PECR.