

Derby City Council – Response

ID Reference FOI120136948

Date 26/03/2025

Request

In terms of the Freedom of Information Act of 2000, and subject to section 40(2) on personal data, could you please provide me with your local authority's complete and most-recently updated list of all business (non-residential) property rates data, including the following fields:

- Billing Authority Property Reference Code (linking the property to the public VOA database reference)
- Liable Party Name (i.e. property occupant or ratepayer)
- Liability Start Date (i.e. date liable party became liable)
- Full Property Address (Number, Street, Postal Code, Town)
- Occupation / Vacancy status
- Date of Occupation / Vacancy

Response

The Council confirms it holds the information requested but the information will not be disclosed because the Council has determined that the following exemption apply.

The Council has taken into account the First Tier Information Rights Tribunal [EA/2018/0033](#) that non-domestic rates information is exempt by virtue of Section 41 of the Freedom of Information Act 2000.

Section 41 Information provided in confidence

Section 41 of the FOIA 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.



2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

Section 41(1)(a) requires that the information in question was obtained from any other person.

A person may be an individual, a company, a local authority or any other “legal entity”

The non-domestic rates information was obtained by the Council from both individuals and non-individuals such as a company. This part of the exemption is therefore satisfied.

Section 41(1)(b) requires the disclosure by the Council to constitute an actionable breach of confidence by that person. The information must therefore have the necessary quality of confidence.

The Council has determined the information does have the necessary quality of confidence. It is recognised in English law that an important duty of confidentiality is owed to taxpayers and is known as “taxpayer confidentiality”.

This 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 tax and rates.

The information requested is not trivial, nor is it available by any other means. If the Council were to disclose the requested information individual business ratepayers would likely issue legal proceedings.

The First Tier Tribunal [EA/2018/0033](#) has stated in their arguments regarding the Section 41 exemption ...

“We accept that there is a general common law principle of tax payer confidentiality: see R (Ingenious Media Holdings plc and another) v Revenue and Customs Commissioners [2016] UKSC 54 (‘Ingenious Media’) at para 17: ‘where information of a personal or confidential nature is obtained or received in the exercise of a legal power or in furtherance of a public duty, the recipient will in general owe a duty to the person from who it was received or to who it relates not to use it for other purposes.’

“We accept that information provided to a local authority for the purposes of calculating rates or reliefs is information that a reasonable person would regard as confidential”

The duty of confidence is not absolute, and the courts recognise three circumstances under which confidential information may be disclosed:

- Where the person to whom the duty of confidentiality is owed consents to the disclosure.
- Where the disclosure is required by law.
- Where there is an overriding public interest in disclosure.

In the context of this request, no consent has been obtained from the business rate payers, nor is the disclosure required by law.

We appreciate that that there is a public interest in in disclosure as it serves the general public interest in promotion of better government through transparency, accountability, public debate, better understanding of how the Council administers business rates.

However, there is a greater public interest in not disclosing information provided in confidence.

Business rate payers provide information (including names and addresses) to the Council in confidence, and have a legally supported expectation that this confidence is maintained. Disclosure of any business rate liability information may discourage business rate payers from providing full information to the Council if there were not a degree of certainty 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 business rates. Such functions are undertaken for the benefit of the public.

The Council considers it would be excessive to override the duty of taxpayer confidentiality and disclose information relating to the affairs of business ratepayers. Your request for disclosure is therefore refused under section 41 of the FOIA.

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



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.

