

# Business Rates Datasets: Freedom of Information Requests

We are frequently asked for information regarding Business Rates datasets.

The council publishes an [NDR database extract](#) and business rates datasets for [new registrations](#), both of which are updated monthly.

Some frequently requested information is not published as part of these datasets nor do we disclose it in response to an FOI request. This includes:

- Information about sole traders
- Business rates credit balances / write on's for specific businesses
- Details of specific reliefs / exemptions a business may be in receipt of
- Empty commercial property / vacancy status data

We consider this information to be exempt for the following reasons:

## **Section 31 (1) (a) – Prejudice to law enforcement**

Section 31 (1) (a) says information is exempt if disclosure would, or would be likely, to prejudice the functions of law enforcement – the prevention and detection of crime. Herefordshire Council believes that release of information about credit balances / write on's or details of reliefs / exemptions a specific business may be in receipt of, or entitled to, would aid the facilitation of fraudulent claims against Herefordshire Council, which would result in financial loss.

This approach has recently been upheld by the Information Commissioner in Decision Notices FS50619844, FS50643256 and FS50865388.

### **Public Interest Test**

As Section 31 is a qualified exemption we need to consider the public interest test, in which the council has to weigh up the reasons for and against disclosure. If it were determined that the public interest in maintaining the exemption outweighs the public interest in disclosure of the information, it could be withheld.

### **Factors in favour of disclosure:**

- Openness and transparency in relation to the way in which public funds are collected and used.
- There is an interest for the businesses concerned in knowing whether or not they have a credit balance / write on on their account so they can claim these monies, or, in knowing if they are entitled to business rates relief.

### **Factors in favour of withholding:**

- Providing details of credit balances / write on's or reliefs in relation to specific business rates accounts would open our business rates system to abuse and criminal activity. There is live intelligence of fraud being committed against local authorities, attempting to fraudulently obtain Business Rates credit refunds or reliefs. Rates and credit information would assist fraudsters in knowing which businesses to falsely put a credit claim against, and the amount to attempt to claim. Disclosure of this information into the public domain would increase the risk and rate at which the council is targeted.
- Fraudulent claims cost the council. A successful fraudulent claim would mean that the council would have incurred the cost of paying money to the fraudster, the council is liable for any legitimate claims (i.e. payment could be made twice) and there is also a cost associated with seeking recovery of funds paid to fraudsters (legal and management time costs). Potential losses to the council itself and to the public purse extend far beyond this particular matter when mosaic or precedent effects are taken into account. Such costs are not in the public interest.
- The businesses concerned have an interest in knowing whether or not they have a credit balance / write on or are entitled to reliefs so they can claim any monies owed to them. However, we consider that to be a private interest rather than a public one. There is a general interest in knowing the global total amounts of relief or credits but not in knowing the amounts owed to individual firms.
- If only the businesses concerned know this type of information about their business it helps to act as a safeguard when they contact the council. If they do contact the council there are verification systems in place to ensure that any discussions which take place with businesses about their accounts take place with the business / their verified representatives, not with anyone else. Disclosure of credit balance / write on's or relief data to the world at large, which disclosure under the FOI Act would essentially do, would remove the safeguards in place. That would result in delays to legitimate claims, as further checks would need to take place, and such delays would not be in the interests of the businesses concerned.

We believe that the balance of public interest lies in upholding the exemption and not releasing the information.

We also consider information about empty commercial properties / vacancy status to be exempt under Sections 31, 41 and 40(2) of the FOI Act. Our reasoning for this is set out in our [FOI Empty Property FAQ](#).

## **Section 40(2) – Personal Data**

Details of commercial properties owned by individuals are considered to be the owners' personal data, because they can be directly or indirectly identified from this information. As such information about these properties is not included in the [Business Rates datasets](#) which are published each month, nor is this information disclosed in response to FOI requests. Disclosure would not be fair and would constitute an unwarranted loss of privacy for those individuals. The information was only provided to the council for business rates purposes, the individuals' concerned have not consented to wider disclosure and have no reasonable expectation this

information would be made public. The individuals' privacy outweighs any legitimate interest in release of the information. Therefore this information is withheld under data protection legislation and we consider Section 40(2) of the FOI Act will also apply to these accounts.

## Advice & Assistance

If the business concerned or their verified representative wishes to enquire about their account and request the above types of information in relation to their business, the council will provide it to them outside of the FOI process. If you are from the business concerned or are their representative, please send your query to: [businessrates@herefordshire.gov.uk](mailto:businessrates@herefordshire.gov.uk). The Business Rates team will verify your identity and, once confirmed, will provide you with the data requested.

The following links may be of interest:

[Paying business rates online](#)

[Business rates relief and exemptions](#)

[How your business rates bill is calculated](#)

## Further Information

Why not check our [disclosure log](#) before making a new request as your question may already have been answered by a previous FOI request or information already published on our website.

## Your Rights

We have considered this carefully and the council's position regarding the above types of information is unlikely to change without a change in the underlying law. However, if you wish to still make an FOI request for this information and you are not happy with how your response is handled you can request an internal review. If you are not satisfied with the internal review you can complain to the [Information Commissioner's Office](#).