

# **Property Information exempt from disclosure under the Freedom of Information Act.**

North East Lincolnshire Council, regularly receives requests for land and property information under the Freedom of Information Act, and to assist requesters we have produced this guide to explain the information that can and cannot be disclosed under the Act and sign post requesters to information reasonably accessible to them by other means.

- Empty Residential Properties – Addresses and Ownership
- Houses in Multiple Occupation – Addresses and Ownership
- Property ownership

## Empty Residential Properties

**Information requested:** the addresses of empty residential properties in North East Lincolnshire and the name and addresses of the owners.

**Response:** Whilst North East Lincolnshire Council hold this information, we are unable to provide details of empty homes in North East Lincolnshire as the information is exempt from disclosure under sections 40(3)(a) and 31(1)(a) of the Freedom of Information Act 2000. The Information Tribunal (case ref EA/2006/0060 & 0066) found that the address of a property and the address or other details of the owner, where the owner was a private individual, were personal data as defined by the Data Protection Act 1998, and therefore fell within the exemption in Section 40 (3) (a) (i) (Personal Information) of the Freedom of Information Act 2000.

The exemption under Section 40 (3) (a) (i) is engaged if the processing of personal data in response to a request would breach one or more of the data protection principles. In this case the Tribunal considered that the individuals concerned had supplied information about their empty properties to the council purely for the council's use, for Council Tax purposes, and with no expectation that the information would be published to the wider public domain. The Tribunal also considered that to obtain information for one statutory process and then re-use it for another purpose without informing the owner of the data would be a breach of Data Protection law. This is an absolute exemption.

Additionally, a First-tier tribunal (case ref EA/2011/0007) found that providing the addresses of empty properties could lead to vandalism, squatting and criminal actions in respect of these properties. The exemption under Section 31 (1)(a) relates to Law enforcement and is engaged when disclosure of the information under this Act would, or would be likely to, prejudice the prevention or detection of crime. As Section 31(1) is a qualified exemption, we are also required to decide, on a case by case basis, whether the public interest in maintaining this exemption outweighs the public interest in its disclosure.

General factors that would weigh in favour of disclosure are:

- Furthering the understanding and participation in the public debate of issues of the day.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.
- Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives.
- Bringing to light information affecting public health and safety.

Specific factors that would weigh in favour of disclosure in this case are:

Given the nature of the exemption in this case, it is our opinion that none of these factors weigh in favour of the public interest in disclosing the information over maintaining the exemption for the prevention of crime. For these reasons we are not able to supply the information requested.

Links to the Full decision notices for the tribunal cases given above:

<http://www.informationtribunal.gov.uk/DBFiles/Decision/i146/ENgland.pdf>

[http://www.informationtribunal.gov.uk/DBFiles/Decision/i942/EA-2011-0007\\_2013-01-22.pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i942/EA-2011-0007_2013-01-22.pdf)

### **Section 40 Personal information**

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the [1998 c. 29.] Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

- (i) any of the data protection principles, or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress)

### **Section 31 Law enforcement**

(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) the prevention or detection of crime.

#### Factors for withholding

- The prevention of squatting and criminal damage which might occur if addresses of empty properties were in the public domain.
- The withholding the data enables individuals to better protect their properties.

#### Factors for disclosure

- The promotion of the re-use of empty properties.

#### Reasons why public interest supports withholding information

- There is an increased danger of criminal damage to properties or use of properties by squatters if the addresses are in the public domain.
- Individuals are less likely to be able to protect their properties against criminal damage or other invasive activity.

## Houses in Multiple Occupation

**Information requested:** the addresses of current properties on the HMO (Houses in Multiple Occupation) Register for North East Lincolnshire and the names and address of the property owners.

**Response:** As a Local Housing Authority, North East Lincolnshire Council is required by Section 232 of the Housing Act 2004 to maintain a register of licences and management orders. We can therefore confirm that we hold the information you have requested.

Regulation 11 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, sets out the particulars prescribed for each entry in the register. This includes the name and address of the licence holder and the address of the licensed HMO or house.

Under the Housing Act 2004, we are required to ensure that the contents of the register (with the exception of any convictions) are available for inspection by members of the public at all reasonable times. If requested by a person to do so and subject to payment of such reasonable fee (if any) as the authority may determine, a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it.

As the contents of the register are available for your inspection, we consider that the information you have requested is exempt from disclosure under the Freedom of Information Act by virtue of section 21 - Information accessible to applicant by other means.

To arrange to inspect the register please contact the Home Improvement Team

Postal Address: New Oxford House, 2 George Street, Grimsby, North East Lincolnshire, DN31 1HB

Email: [homeimprovementteam@nelincs.gov.uk](mailto:homeimprovementteam@nelincs.gov.uk)

Telephone: 01472 324727

Opening times: Monday to Thursday from 9am to 5pm and Friday 9am to 4:30 pm, except bank holidays.

Further details can be found on the Houses in multiple occupation section of our website.

Link to the Houses in multiple occupation section <https://www.nelincs.gov.uk/homes-and-property/houses-in-multiple-occupation/> which includes a list of the properties HMO licenses have been granted for.

## Property ownership

**Information requested:** who is the owner of a particular property in North East Lincolnshire.

**Response:** North East Lincolnshire Council do not hold details of the owners of every property within North East Lincolnshire.

Details of the properties and land owned by North East Lincolnshire Council is published as part of the Transparency Code in the Council owned land and property section of our website. The link to this page is <http://www.nelincs.gov.uk/homes-and-property/council-buildings-land/council-owned-land-and-property/>

You can find information about the ownership of properties in England and Wales through HM Land Registry, the link for their website is <https://www.gov.uk/government/organisations/land-registry>

As information on the ownership of a property is reasonably accessible to you through HM Land Registry, we consider that the information you have requested is exempt from disclosure by North East Lincolnshire Council under the Freedom of Information Act by virtue of section 21 - Information accessible to applicant by other means.