

GeoPlace LLP
By email only to: support@geoplace.co.uk

26 July 2021

Case reference number IC-65493-V3W4

Dear Sir or Madam

Freedom of Information Act 2000 (FOIA)

Complainant: Dr Robert J Whittaker

URL:

https://www.whatdotheyknow.com/request/lists_of_historic_and_parent_upr?unfold=1#incoming-1605623

We wrote to you previously to let you know that we have accepted this case for investigation. I have now been asked to investigate it.

You should now reconsider the way the authority has handled this request and respond as detailed below.

ICO's approach

On receipt of a complaint under the FOIA, we will give a public authority one opportunity to justify its position, before issuing a decision notice. Please consider the guide for public authorities on our website for more information about how we handle complaints:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

The request

On 14 July 2020 the following information request was made:

Under the Freedom of Information Act, please could you supply me with a list of all UPRNs that are classified as 'historic', and a separate list of all those classified as a 'parent', as per the descriptions given on page 3 of <https://s3.eu-west-1.amazonaws.com/static.geoplace.co.uk/downloads/The-UPRN-lifecycle-V3-2015.pdf>

I do not want any other information about these UPRNs, just a list of the UPRN numbers that have each of those statuses.

The authority issued a response on 31 July 2020. It stated that the information was withheld under the exemptions provided by section 21 and section 43(2).

On 31 July 2020 an internal review was sought.

The authority provided the outcome of its internal review on 25 September 2020. In this it maintained the application of section 21 and section 43(2).

The scope of the case

The focus of my investigation will be to determine whether the authority handled the request in accordance with the legislation.

Specifically, I will look at whether the authority is entitled to withhold the information under section 21 or section 43(2).

What you need to do now

Where possible we prefer complaints to be resolved by informal means, and we ask both parties to be open to compromise. It is also your responsibility to satisfy us that you have complied with the law. Our website has guidance which you should refer to in order to check whether your original response to the information request was appropriate.

This is your opportunity to finalise your position. With this in mind, you should revisit the request. After looking at our guidance, and in light of the passage of time, you may decide to reverse or amend your position. If you do, please notify the complainant and me within the timeframe specified at the end of this letter. This may enable us to close this case informally without the need for a decision notice.

In any event, we need the following information from you to reach a decision:

The withheld information

1. From my cursory reading, the information appears to derive, and be made available by, Ordnance Survey. Are you satisfied that GeoPlace LLP holds the information in its own right for the purposes of section 3 the FOIA?

If you are not satisfied, or otherwise unsure, please do not proceed any further and contact me to discuss.

2. If you are satisfied, please confirm whether the exemptions have both been applied to exactly the same information.

Section 21 – Information accessible to applicant by other means

1. Please clearly explain how the requested information would be accessed by the applicant and why this information is considered to be **reasonably** accessible to him/her specifically.
2. If the information is available via a publication scheme, please provide details of the relevant scheme. If the information is accessible through a publication scheme on payment of a fee, please detail the charge applied to access this information.
3. If the information in question is available online, please provide the relevant URLs. Please confirm when this information was uploaded onto the website, or confirm that the information was available via this route at the date of the request.
4. Has the authority taken into account the particular circumstances of the applicant when deciding whether access to the information is reasonable?
5. Where the public authority has applied section 21(2)(b), please provide details of the enactment which public authority is relying upon.

Section 43(2) – Commercial interests

1. Please identify the party or parties whose commercial interests would, or would be likely to be prejudiced if the withheld information was disclosed.
2. The ICO has been guided on the interpretation of the phrase 'would, or would be likely to' by a number of Tribunal decisions. The Tribunal has been clear that this phrase means that there are two possible limbs upon which a prejudice based exemption can be engaged; i.e. either prejudice 'would' occur or prejudice 'would be likely to' occur.

With regard to 'would be likely to' prejudice, the Information Tribunal in *John Connor Press Associates Limited v The Information Commissioner*

(EA/2005/0005) confirmed that 'the chance of prejudice being suffered should be more than a hypothetical possibility; there must have been a real and significant risk'.

With regard to the alternative limb of 'would prejudice', the Tribunal in *Hogan v Oxford City Council & The Information Commissioner* (EA/2005/0026 & 0030) commented that 'clearly this second limb of the test places a stronger evidential burden on the public authority to discharge'.

Please confirm which threshold of likelihood the authority is relying on in this case, i.e. the lower threshold that disclosure '**would be likely to**' have a prejudicial effect, or the higher threshold that disclosure '**would**' have a prejudicial effect.

3. Please provide a detailed explanation* to support the position that disclosure of the withheld information would, or would be likely to prejudice a party's commercial interests.

*Please ensure that you provide evidence which demonstrates a clear link between disclosure of the information that has actually been requested and any prejudice to commercial interests which may occur.

4. If the prejudice relates to the commercial interests of third parties, in line with the Tribunal decision in the case *Derry Council v Information Commissioner* (EA/2006/0014), the ICO does not consider it appropriate to take into account speculative arguments which are advanced by public authorities about how prejudice may occur to third parties. Whilst it may not be necessary to explicitly consult the relevant third party, arguments which are advanced by a public authority should be based on its prior knowledge of the third party's concerns. Therefore, please clarify on what basis you have established that disclosure of a third party's interests may occur and please provide copies of correspondence the authority has had with third parties in relation to this request.
5. What public interest arguments in favour of disclosing the information were taken into account?
6. What public interest arguments in favour of maintaining the exemption were taken into account?

7. Please explain* why you consider that on balance the public interest in maintaining the exemption outweighs that in disclosing of the withheld information. Please include details of any particular weighting exercise that has been carried out.

*Please ensure that your submissions focus on the content of the information that has actually been withheld rather than simply being generic public interest arguments.

To proceed

We strongly recommend that your response is guided by recent decision notices, our guidance and our lines to take, which demonstrate our approach to the exemptions and procedural sections of the FOIA. These can be found on our website:

- <http://search.ico.org.uk/ico/search/decisionnotice>
- <https://ico.org.uk/for-organisations/>

The following in particular appear relevant in this case:

- Determining whether information is held guidance: https://ico.org.uk/media/for-organisations/documents/1169/determining_whether_information_is_held_foi_eir.pdf
- Section 21 guidance: <https://ico.org.uk/media/for-organisations/documents/1203/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf>
- Section 43(2) guidance: <https://ico.org.uk/for-organisations/foi-guidance/section-43-commercial-interests/#432>

Having revisited the request, you may decide to apply a new exemption. We will consider new exemptions but it is your responsibility to tell the complainant why the new exemption applies.

For the avoidance of doubt, you should now do the following.

- Consider whether to change your response to the information request, and if so, advise us, and the complainant.
- Otherwise, answer the above questions.

Please provide your response within 20 working days of the date of this letter, that is by **24 August 2021**, ensuring that you fully set out your final position in relation to this request. If you have any concerns please contact me at icocasework@ico.org.uk (quoting the above reference) or telephone me.

Yours sincerely

Daniel Perry
Senior Case Officer, Information Commissioner's Office
Telephone: 0330 414 6214

For information about what we do with personal data see our [privacy notice](#)

We are often asked for copies of the correspondence we exchange with third parties. We are subject to all of the laws we deal with, including the Data Protection Act 2018 and the Freedom of Information Act 2000. You can read about these on our website (www.ico.org.uk). Please say whether you consider any of the information you send us is confidential. You should also say why. We will only withhold information where there is good reason to do so.