



Homes
England

Date: 26 May 2021

Our Ref: RFI3450

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear ██████████

RE: Request for Information – RFI3450

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA). For clarification, you requested the following information:

*How much each one of the 46 payees actually paid?
What was the amount of land involved for each payee?
The location (Town or City) of each payee?*

This was following issue of our response to your previous request, referenced RFI3385:

I would like to know the breakdown of sums received for the release of restrictive covenants. Payments to Homes England. Years 2019 to today.

With particular emphasis on covenants that restrict building/development of land.

I want to know how many times, and how much, even if it is £0, Homes England have been paid for the release of a restrictive covenant related to developing land for which Homes England are the covenant owner.

Response

We are able to inform you that we do hold the information that you have requested. However, to comply with your request would exceed the appropriate limit for the cost of compliance. We therefore rely on section 12, exemption where the cost of compliance exceeds the appropriate limit under the FOIA.

The full text of the legislation can be found on the following link and we have quoted section 12 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/contents>

Section 12 - Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

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(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Minister for the Cabinet Office may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority:

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Minister for the Cabinet Office may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

We have considered the current wording of your request and in its current scope we have determined that to establish where all elements of the information is held, to locate the information, retrieving the information and extracting the information would exceed the appropriate limit in terms of timeframes.

Under the terms of the Act we are not obliged to provide any information compiled in the course of our searches prior to concluding section 12 is engaged.

Advice and Assistance

In compliance with the Section 45 Code of Practice (Paragraph 14) and to offer advice and assistance under section 16 of the Freedom of Information Act 2000, you may wish to consider narrowing the scope of your request.

We can advise that the section 12 limit is reached particularly due to the request for ‘*How much each one of the 46 payees actually paid?*’. We proceeded to work with the responsible Information Owners of this information to determine what information was held. The information requested is not stored centrally therefore we would have to locate, retrieve and extract this information manually from 46 individual case files. Once the information is located and accumulated it will then need to go through a review process to provide the specific information that has been requested. At this stage it was determined that to comply with your request would exceed the appropriate limit for compliance.

Your request could be refined by specifying a particular area of land or particular site. It would also be useful to clarify if your request refers to the area of land that was subject to the restrictive covenant, or area of land that was in the overall control of the payee for example. You could further narrow your request by specifying your meaning of the term “location” in respect of the payee (their registered office, where they live, or location of the land that is being released from the restrictive covenant).

We will consider any new request for information as worded in line with our requirements under FOIA. However, please note that due to the broad scope of your request we cannot confirm that any further request would not also exceed the section 12 cost limit at this time.



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Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled, you may request an internal review. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk

The Information Governance Team
Homes England – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link <https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team
For Homes England

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