



Homes  
England

Date: 5 July 2022

Our Ref: RFI3926

Tel: 0300 1234 500

Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

Making homes happen

By Email Only

Information Governance Team  
Homes England  
Windsor House – 6<sup>th</sup> Floor  
50 Victoria Street  
London  
SW1H 0TL

Dear [REDACTED]

**RE: Request for Information – RFI3926**

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

*You will have read the April 2022 Times exposure of business practices used by Affordable Housing and Healthcare Group in particular the claiming of grants from Homes England.*

*Homes England is quoted as responding;*

*A spokesperson for Homes England, the government agency that funds affordable housing, said: "It's been brought to our attention that the conditions of our grant funding have been breached.*

*"The Affordable Housing and Healthcare Group must establish the full extent of the breaches and provide remedy, which we will expect to be urgently actioned. As with any case where there has been prohibited or unacceptable activity, we will issue appropriate sanctions."*

*This is an FOI request to provide us with all correspondence between AHH & Homes England relating to this matter, in particular any sanctions issued or repayment of grants.*

**Response**

We can inform you that we do hold information that falls in scope of your request. However, we rely on Section 31(1)(c) and Section 42(1) of the FOIA to withhold the information from disclosure.

**Section 31 – Law Enforcement**

Under section 31(1)(c) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the administration of justice.

Section 31 is a qualified exemption, this means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether or not it is in the wider public interest for the

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information to be disclosed.

Arguments in favour of disclosure:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money.

Arguments in favour of withholding:

- Homes England has a duty to protect the administration of justice in order to limit prejudice and detriment to the organisation and any other third parties that are likely to be affected by this specific disclosure;
- The current prejudice to the administration of justice is of substance and at this moment in time, Homes England has a duty to protect the information from disclosure as disclosure would be likely prejudice this live and current matter;
- To disclose the information would be likely to prejudice the administration of justice which in turn would be likely to prejudice Homes England and other third parties in that this matter may be subject to legal proceedings and Homes England and others require a safe space to conduct the potential administration of justice; and
- Homes England have determined that there is a likelihood that if the information requested were to be disclosed, at this moment in time, that it would be likely to prejudice the administration of justice.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours non-disclosure.

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/31>

**Section 42 – Legal Professional Privilege**

Under section 42(1) Homes England is not obliged to disclose information in respect of which a claim to legal professional privilege could be maintained.

Section 42 is a qualified exemption, this means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether or not it is in the wider public interest for the information to be disclosed.

Arguments in favour of disclosure:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money.

Arguments in favour of withholding:



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- Homes England believes that disclosure of the requested information would be likely to restrict the ability to speak freely and frankly with the organisation's legal advisers in order to obtain appropriate legal advice, which is a fundamental requirement of the English legal system; and
- The concept of legal professional privilege protects the confidentiality of communications between a lawyer and their client. It is essential that Homes England can take legal advice from its professional legal advisers as and when it needs to in order to protect public money which has been advanced. If that legal advice or information based upon it is exposed to the public, it not only allows the other parties to any negotiation or litigation an insight it should not have – it also undermines Homes England's ability to seek this advice freely and without fear that conclusions would be drawn based on the questions asked and the answers given. Homes England needs to be able to communicate freely with its legal advisers in confidence. This helps to ensure complete fairness in legal proceedings which is likely to be at a detriment if the requested information is disclosed.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours non-disclosure.

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/42>

### **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](mailto:infogov@homesengland.gov.uk)

The Information Governance Team  
Homes England – 6<sup>th</sup> 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:



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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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