



Homes
England

Date: 13 March 2023

Our Ref: RFI4169

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████
By Email Only

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

Dear ██████████

RE: Request for Information – RFI4169

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:

Which (if any) Councils within the North East combined authority applied / were awarded Housing Infrastructure Funding.

And

Please could you detail the allocation for each council where it was awarded.

Response

We can confirm that we do hold the requested information. We will address the information for “applied” and “awarded” separately.

Which (if any) Councils within the North East combined authority were awarded Housing Infrastructure Funding.

And

Please could you detail the allocation for each council where it was awarded.

Data from funding inception to 2021:

We can inform you that we do hold the information that you have requested. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link and we have quoted section 21 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

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21 - Information accessible to applicant by other means.

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such, we can advise that the Housing Infrastructure Fund (HIF) operates under two streams, 'Forward Funding' and 'Marginal Viability'.

For both streams, awarded projects from scheme inception to 2021 can be found on the following link:

<https://www.gov.uk/government/publications/housing-infrastructure-fund>.

Data from 2021 to date:

We can inform you that we do hold the information that you have requested. However, we rely on section 22, exemption where information is intended for future publication under the FOIA.

The full text of the legislation can be found on the following link and we have quoted section 22 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/section/22>

Section 22 - Information intended for future publication.

(1) Information is exempt information if:

(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

(2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).



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Section 22 is a qualified exemption. This means that in order to withhold information under this exemption, we must consider the public interest in disclosure.

Public Interest Test – Factors in favour of disclosure

Homes England is compliant with the government agenda of transparency and recognises the benefit of publishing the information, particularly when it concerns how Homes England undertakes its work.

Public Interest Test – Factors in favour of non-disclosure

The publication of this data will occur after review and approval by our sponsor department, the Department of Levelling up, Housing and Communities (DLUHC). Publication of this information is part of standard and agreed disclosure practices between Homes England and DLUHC as part of our obligations to transparency. To release the information in advance of a planned publication would cause additional resource on both departments in terms of collation and review. Furthermore, additional resource would be required from our communications and media teams if this information were to be published before the agreed time.

Therefore, after careful consideration we have concluded that at this time, the balance of the public interest favours non-disclosure.

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 FOIA we can advise that the page link provided above will be updated later this year with allocations from 2021 to date.

Which (if any) Councils within the North East combined authority applied [for] Housing Infrastructure Funding.

We can inform you that we do hold the information that you have requested. However, we rely on section 43 (2) of the FOIA to withhold the information from disclosure.

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

The information requested relating to applications for funding under the Housing Infrastructure Fund (HIF) engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of the HIF programme.

Section 43 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:



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- 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:

- To disclose information of councils that have “applied” for funding to the HIF would result in the public being able to compare this with the published information detailing councils that have been successful. In essence, this would confirm to the public domain councils that had been unsuccessful in their applications to the HIF. The councils with unsuccessful applications may be looking to progress these schemes regardless of the HIF funding. Therefore, the schemes are likely to be reliant on other funding sources. To release the information would confirm that the schemes did not meet Homes England requirements. This would prejudice public perception of these schemes and the councils involved may not be able to secure or maintain other sources of funding if these other funding sources knew that Homes England had not accepted the scheme to the HIF.
Confirming individual schemes where a Local Authority has applied to the HIF but been unsuccessful would in turn affect their commercial interests. The consequences of releasing this would damage our relationships with partners and put other potential funding allocations at risk. This would not be in the public interest as this could put potential homes in jeopardy and affect Homes England’s ability to deliver against its objectives in our strategic plan;
- Many of the schemes where an applicant has not been successful in their application to the HIF relate to sites where a third party (the Local Authority) will yet be procuring/undertaking works. If this information were released it would be likely to disadvantage the third party’s commercial position and have a negative impact on the third party’s ability to procure works for ongoing development at this site. The Local Authority would not be able to negotiate effectively as this information could be used by third parties to distort or otherwise prejudice the ability of the Local Authority to secure works for market value, resulting in damage to the public purse. This would also be likely to have the same negative effect on future commercial activity and other Homes England funding. This would not be in the public interest as it would put development at risk, inflate prices and damage Homes England’s reputation in the housing delivery market. This would negatively affect public money and nullify work already undertaken on these schemes by the third parties;
- The schemes not accepted to the HIF may currently be progressing through the planning process. The consequences of releasing data that are part of wider ongoing proposals could damage our relationships with partners and put the third party’s potential negotiations and planning at risk. The interests of the third parties involved would also be similarly affected by disclosure, as this would reveal financial and planning considerations that the Local Authorities are currently working to progress. If released, their interests would be adversely affected as it would undermine the proper planning process. Local Authorities may face undue pressure or distortion of the planning process if this information were in the public domain, which would not be in the public interest.
- Disclosure would result in local authorities being deterred from applying to the HIF in future bids for funding. If Local Authorities felt that Homes England would reveal commercially sensitive information or information that would prejudice the schemes, they would not bid to be a part of the programme. This will mean that Homes England would have a narrower pool of applicants to the HIF. This would not be in the



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- public interest as it would be likely to put potential homes in jeopardy and would undermine Homes England's position and ability to deliver against its objectives and targets in our Strategic Plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

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/43>

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



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For Homes England

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