



Homes England

Date: 20 September 2023

Our Ref: RFI4290

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4290

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA). Please accept our sincere apologies for the delay in issuing this response to you. We recognise that the handling of your request has fallen below expectations and of the standards outlined in the legislation.

You requested the following information:

I would like to request information for this property and an update on the status, they have been renting/subletting since 2021 illegally:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

You further clarified your request:

I am after a status update of the current investigation into the illegal subletting of this property which is affecting a sale of my house.

The rogue landlords seem to put in tenants who wouldn't get accepted anywhere else, therefore becoming a nightmare.





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How can they get away with subletting since September 2021? Is this not a violation of the terms and conditions?

They've missed many mortgage payments. Please inform me of your updates.

Response

Neither Confirm nor Deny

Homes England can neither confirm nor deny that we hold the information requested.

On receipt of a valid request for information, section 1(1) of the FOIA obliges a public authority to inform the requestor under section 1(a) if they hold the information requested, and under section 1(b) communicate that information to them.

However, the duty under section(1)(a) does not apply to your request by virtue of section 31(3) – Law Enforcement.

Under section 31(3) the duty to confirm nor deny does not arise if to comply with this duty would be likely to prejudice the prevention or detection of crime (Section 31(1)(a)).

The full text of section 31 in the legislation can be found here:

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

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 organisation to confirm or deny that we hold the information.

Public Interest Test – Section 31

Arguments in favour of confirming or denying:

- 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; and
- Homes England acknowledges that there is a public interest in the enforcement we take against allegations of wrongdoing.





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Arguments in favour of neither confirming or denying:

- Confirming or denying that Homes England holds information that falls within scope of the request would be likely to undermine Homes England's ability to investigate and take action regarding alleged wrongdoing;
- Confirming or denying would be likely to increase the risk of the law being broken if the public were aware of information relating to any investigation and enforcement process;
- Confirming or denying would be likely to negatively affect any ongoing investigations and could prejudice Homes England's ability to take action against any alleged wrongdoing; and
- Confirming or denying would be likely to prejudice the terms of the contract between Homes England and a third party. The Agreement is a legal agreement between the parties, the terms of which are enforceable by Homes England through common law. Under the Agreement, Homes England have the duty to investigate any suspicion of wrongdoing, and has the power to instigate civil proceedings.

Advice and Assistance

In compliance with the Section 45 Code of Practice (Paragraph 2.10) and to offer advice and assistance under section 16 of the FOIA, we can advise that individuals are able to sublet a Help to Buy property if their personal circumstances make it difficult to live there, and Homes England, the mortgage lender and the home insurance provider have consented to the subletting.

You can find our more information about subletting a Help to Buy home via the following link, including what we do situations where subletting is happening without permission.

<https://www.gov.uk/guidance/how-to-sublet-your-help-to-buy-home>

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.





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Information Governance Team

Homes England

Windsor House

6th Floor

42-50 Victoria Street

London

SW1H 0TL

United Kingdom

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

6th Floor
Windsor House
42 - 50 Victoria Street, Westminster
London, SW1H 0TL

0300 1234 500
@HomesEngland
www.gov.uk/homes-england

