

# Empty Residential & Commercial Properties: Freedom of Information Requests

We are frequently asked for information regarding empty properties in Herefordshire. This can be about empty residential properties, commercial premises in private ownership and those owned by Herefordshire Council.

The information we do not publish and will not provide in response to an FOI request is:

- The address of the empty property
- The name and contact details of the owner
- Property Billing Reference
- Dates of occupancy / vacancy

We believe it is exempt under 3 exemptions:

## **Section 31 (1) (a) – prejudice to law enforcement**

Section 31(1) (a) says information is exempt if disclosure would, or would be likely, to prejudice the functions of law enforcement – the prevention and detection of crime. Herefordshire Council believes that release of the above information would increase the likelihood of break in / burglary / trespass.

### **Public Interest Test**

As Section 31 is a qualified exemption we need to consider the public interest test, in which the council has to weigh up the reasons for and against disclosure. If it were determined that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, it could be withheld.

### **Factors in favour of disclosure:**

- Could assist in returning empty properties to use if interested tenants were able to easily identify the premises available.
- Promoting the re-use of empty commercial premises could bring significant economic benefits to the area, and improve opportunities for businesses.
- Many people in the UK cannot find a place to live. If details of empty residential properties were released this could promote public debate on the issue of long term empty properties and what councils do to return such properties to use.

### **Factors in favour of withholding:**

- Criminal behaviour can be carried out on or targeted at empty buildings. There is an inherent public interest in crime prevention.
- Herefordshire is a very rural county and properties may not be widely known to be empty by the fact of their isolation. Releasing a list of addresses of empty homes or business premises would act like a 'shopping list' for those intent on committing crimes associated with such properties, giving them an easy way to identify them.
- Public interest in avoiding costs – financial costs to the owners, distress and inconvenience caused and costs to the public purse through police investigations into such crimes.
- If break in / burglary / trespass occur in empty homes this can have a negative impact on the neighbourhood and the quality of life of other residents.
- Although information on empty commercial properties could be beneficial to the local economy, the Local Enterprise Partnership's [Growth Hub](#) provides a lot of free advice and assistance to businesses. There is also a [commercial premises register](#) detailing premises which are available to rent / buy (this does not state if they are currently empty).

We believe that the balance of public interest lies in upholding the exemption and not releasing the information.

## **Section 41 – Information provided in confidence**

Owners of commercial properties have provided details of their property to the council for the purposes of calculating business rates or relief. There is a general common law principle of taxpayer confidentiality and as such this information has a necessary obligation of confidence. We consider there is only a limited public interest in disclosure of this information, and so this interest does not outweigh the importance of the general principle of tax payer confidentiality. Therefore we consider Section 41 will also apply.

## **Section 40(2) – Personal data**

Details of residential properties and commercial properties owned by individuals are considered to be the owners' personal data, because they could be directly or indirectly identified from this information. Disclosure would reveal information on their current standing – that they rent or own a substantial asset which is not being used. Such disclosure would not be fair and would constitute an unwarranted loss of privacy for those individuals. The information was only provided to the council for business rates or council tax purposes, they have not consented to wider disclosure and have no reasonable expectation this information would be made public. The individuals' privacy outweighs any legitimate interest in release of the information. Therefore we consider Section 40(2) will also apply.

## **Advice & Assistance**

The following links may be of interest:

[Empty homes and properties](#)

[Long term empty property strategy for Herefordshire](#)

[The number of private & council homes vacant over the last 20 years](#)

## **Further information**

Why not check our [disclosure log](#) before making a new request as your question may already have been answered by a previous FOI request or information already published on our website.

## **Your Rights**

We have considered this carefully and the council's position regarding the details of empty properties is unlikely to change without a change in the underlying law. However, if you wish to still make an FOI request for this information and you are not happy with how your response is handled you can request an internal review. If you are not satisfied with the internal review you can complain to the [Information Commissioner's Office](#).