

Freedom of Information (Jersey) Law 2011

DECISION NOTICE

JOIC Reference	CAS-04959
Date of Decision Notice	27 February 2025
Scheduled Public Authority	Parish of Grouville
Address	Parish Hall La Rue a Don Grouville JE3 9GA
Date of Request	25 July 2024
Date of Response	23 August 2024
Date of request for Internal Review	4 September 2024
Date of Internal Review Response	1 November 2024
Date of appeal to Information Commissioner	12 November 2024

Summary/Decision

1. On 25 July 2024, the Complainant requested certain information from the Parish of Grouville (the **SPA**) about the SPA's 2024 rates appeals and review process (the **Request**).
2. The SPA wrote to the Complainant on 23 August 2024 (the **Response**) providing the information requested but also stating that certain of the information sought in the Request was being withheld (the **Withheld Information**), citing the exemptions at Arts.23 and 25(2) of the Freedom of Information (Jersey) Law 2011 (the **FOI Law**). The Complainant did not agree with the Response and requested an internal review on 4 September 2024 (the **IR Request**).
3. The SPA responded to the IR Request on 1 November 2024 (the **Internal Review Response**) and issued a partially revised response (the **Revised Response**), but otherwise upholding the decision that had been made.

4. The Complainant did not agree with the outcome of the Internal Review and issued an appeal to the Information Commissioner (the **Commissioner**) on 12 November 2024 (the **Appeal**).
5. The Commissioner's decision is to that the appeal is partially upheld. There are no further steps the SPA needs to take in relation to this matter other than in respect of Question 9.

The Role of the Information Commissioner

6. It is the duty of the Commissioner to decide whether a request for information made to a SPA has been dealt with in accordance with the requirements of Part 1 of the FOI Law.
7. This Decision Notice sets out the Commissioner's decision.

The Request

8. The Complainant's Request was in the following terms:

"Please can you provide me with the following information

In respect of all parishes

- *The total number of appeals made to the Rates review Board in 2024 from each parish.*
- *The highest and lowest rate assessment appealed.*

In respect of the 2024 Grouville Rates Assessment process please provide

- *The total number of R5 request to reviews submitted in 2024.*
- *The total number of Rates Clinics held.*
- *The number of Rates Clinics held without an R5 form having been submitted.*
- *The number of assessments amended as a result of a "request to review", with or without an R5 being submitted.*
- *The number of assessments that were not amended after a "request to review", with or without an R5 being submitted.*
- *The largest reduction in quarters resulting from a "request to review".*
- *The smallest reduction in quarters resulting from a "Request to Review".*
- *The average reduction in quarters arising from a "Request to Review".*
- *The total number of quarters removed from the draft rates list as a result of the outcomes of the Requests to Review reviews.*
- *The total number of properties assessed in Grouville in 2024 using the written assessment guidelines issued in March 2024".*

9. On 25 August 2024 the SPA provided a Response, providing certain of the information requested, but declining to provide other aspects, citing the exemptions at Arts.23 and 25 of the FOI Law.
10. The Complainant issued their IR Request on 4 September 2024 indicating that they did not agree with the SPA's response. Specifically, in their IR Request, the Complainant set out the following

reasons why they did not consider that the Response had been provided in compliance with the FOI Law, including noting that certain of the information that had been provided was, in the Complainant's view, incorrect:

"I have reasonable grounds to believe that some of the responses provided are unanswered, incomplete or wrong. Please can a formal internal review of the responses be undertaken.

<i>Response to:</i>	<i>Reason:</i>
<i>Appeals to the Rate Appeal Board</i>	<i>Query the number.</i>
<i>Highest and lowest assessment appealed</i>	<i>Believe to be incorrect.</i>
<i>The total number of Rates Clinics held</i>	<i>The request has not been met.</i>
<i>The number of Rates Clinics held without an R5 form having been submitted</i>	<i>The request has not been met.</i>
<i>The number of assessments amended as a result of a "request to review", with or without an R5 being submitted</i>	<i>The request has not been met.</i>
<i>The number of assessments that were not amended after a "request to review", with or without an R5 being submitted</i>	<i>The request has not been met.</i>
<i>The largest reduction in quarters resulting from a "request to review"</i>	<i>This response is not accepted.</i>
<i>The smallest reduction in quarters resulting from a "Request to Review"</i>	<i>This response is not accepted.</i>
<i>The average reduction in quarters arising from a "Request to Review"</i>	<i>The response does not take account of reviews when the R5 form was not submitted.</i>
<i>The total number of quarters removed from the draft rates list as a result of the outcomes of the Requests to Review</i>	<i>The response does not take account of reviews when the R5 form was not submitted.</i>
<i>The total number of properties assessed in Grouville in 2024 using the written assessment guidelines issued in March 2024</i>	<i>The request has not been addressed.</i>

11. The results of the Internal Review were communicated to the Complainant on 1 November 2024 as follows:

"Appeals to the Rate Appeal Board in 2024 - all Parishes:

- *15 appeals relating to land in Grouville; no appeals for other Parishes*

Internal review – *this response is correct.*

- Lowest assessment appealed - 5,000 quarters; highest assessment appealed - 27,000 quarters

Internal review – this response is correct.

2024 Grouville Rates Assessment process:

Each year a 'Notice of Assessment' is sent to each owner and occupier of land in the Parish in accordance with Article 8 of the Rates (Jersey) Law 2005. The information sent with the Notice of Assessment includes –

- When and how the Rates List is available for inspection.
- When members of the Assessment Committee are available to discuss any queries that ratepayers may have (appointments may be made via the Parish Hall). These meetings are referred to as 'clinics' and provide an opportunity to discuss an assessment (an Assessment Committee may correct at any time any factual or typographical or similar error in the Rates List, either on its own volition or on the application of any person, in accordance with Article 9(6) of the Rates (Jersey) Law 2005).
- How to request a review of an assessment in accordance with Article 9 of the Rates (Jersey) Law 2005 ("R5" is the designation on the application form to request a review).

The information with the Grouville 2024 Notice of Assessment may be viewed here - [Notice of Assessments 2024 | Parish of Grouville](#)

<i>Request:</i>	<i>Response issued 22/8/2024:</i>	<i>Internal review response:</i>
<i>The total number of R5 request to reviews submitted in 2024</i>	<i>Information is absolutely exempt – Article 23 information accessible by other means</i>	-
<i>The total number of Rates Clinics held</i>	<i>Members of the Assessment Committee offered three dates (referred to as 'clinics') when ratepayers could discuss any queries with their assessments – see Notice of Assessments 2024 Parish of Grouville</i>	<i>The response is correct</i>
<i>The number of Rates Clinics held without an R5 form having been submitted</i>	<i>A 'clinic' provides an opportunity to discuss an assessment and is not dependent on an R5 form being submitted.</i>	<i>The response is correct</i>
<i>The number of assessments amended as a result of a "request to review", with or without an R5 being submitted</i>	<i>An application to review an assessment is made in accordance with Article 9 and requires an R5 form. On</i>	<i>The response is correct</i>

	review, amendments were made to 32 assessments.	
The number of assessments that were not amended after a "request to review", with or without an R5 being submitted	An application to review an assessment is made in accordance with Article 9 and requires an R5 form. On review, 15 assessments were maintained.	The response is correct
The largest reduction in quarters resulting from a "request to review"	Information is absolutely exempt - Article 25(2) - Personal Information	<p>Internal review of application of exemption</p> <p>The highest reduction was 10,400 qrs. An exemption was previously applied as it may be possible to identify the property (and thus the person) by comparing 2023 and 2024 Rates Lists but on Internal Review we have decided this is not possible and so the figure can be released.</p>
The smallest reduction in quarters resulting from a "Request to Review"	Information is absolutely exempt - Article 25(2) - Personal Information	<p>Internal review of application of exemption</p> <p>The exemption is maintained as there are fewer than 5 reductions of this amount and it may be possible to identify the property (and thus the person) by comparing 2023 and 2024 Rates Lists.</p>
The average reduction in quarters arising from a "Request to Review"	The average reduction over 32 assessments was 3,135.94 quarters	The response is correct for 'reviews'.
The total number of quarters removed from the draft rates list as a result of the outcomes of the Requests to Review	The amendments made on review of 32 assessments resulted in a reduction of 100,350 quarters (in 2023 Parish rates were paid on 78,624,636 quarters – see page 22 of the SIGNED-	The response is correct for 'reviews'.

	Parish-of-Grouville-2023-Accounts.pdf .	
<i>The total number of properties assessed in Grouville in 2024 using the written assessment guidelines issued in March 2024</i>	<i>The rateable value of land is assessed on the basis that each area of land with similar or substantially similar attributes has the same rateable value, and rateable values are proportionate to attributes (Article 6 of the Rates (Jersey) Law 2005); the assessment guidelines only provide a guide to the rateable value that might be expected for land with certain attributes.</i>	<i>The response is correct, the information is not held.</i>

FOI exemptions applied:

Article 23 - Information accessible to applicant by other means

Information is absolutely exempt information if it is reasonably available to the applicant, otherwise than under this Law, whether or not free of charge. A scheduled public authority that refuses an application for information on this ground must make reasonable efforts to inform the applicant where the applicant may obtain the information.

Justification for exemptions

FOI response - see 2024-domestic-rate-review-applications.pdf (comite.je)

Article 25(2) - Personal Information - Personal data, applicant not subject but supply contravenes data protection principles

Information is absolutely exempt information if – (a) it constitutes personal data of which the applicant is not the data subject as defined in the Data Protection (Jersey) Law 2018; and (b) its supply to a member of the public would contravene any of the data protection principles, as defined in that Law.”

The Investigation

Scope of the case

12. On 12 November 2024, the Complainant contacted the Commissioner to appeal against the Internal Review Response. The Complainant asked the Commissioner to review the Complainant’s Request and the responses received from the SPA to ascertain whether what had been provided was in accordance with the FOI Law and whether the exemptions cited by the SPA were appropriately applied.
13. The Commissioner has set out in this Notice the issues he has had to consider in respect of the relevant exemptions cited by the SPA and also the correctness of certain of the response provided.

14. In coming to a decision on this matter, the Commissioner has considered all the relevant submissions, or parts of submissions, made to him by both the Complainant and the SPA. He is satisfied that no matter of relevance has been overlooked.

Chronology

15. On 4 December 2024, the Commissioner wrote to the SPA to advise that the Complainant had made an Appeal to the Commissioner, pursuant to Art.46 of the FOI Law. The SPA was asked to provide their written submissions in response to the complaint made by the Complainant.
16. The SPA responded to that letter on 18 December 2024, providing detailed explanations as to why it considered it had appropriately responded to the Complainant's Request.

Analysis

17. Given the manner in which the Complainant has set out their Request, this Decision Notice will go through each of the questions subject to this appeal in turn, referring to the Complainant's stance, the SPA's stance, and the Commissioner's analysis and decision. Any additional matters will be dealt with after the separate questions. "Question" refers back to the list of original questions asked by the Complainant in their Request. If a Question is not referred to, it was not submitted by the Complainant as part of this appeal.

Question 2: In respect of all parishes, ... the highest and lowest rate assessment appealed

The Complainant's Position

18. The Complainant says that the information provided by the SPA was incorrect in that the Response stated that 27,000 was the highest assessment subject to appeal but their own appeal (against an initial assessment set out in the draft rates list) was against 30,500 quarters *"...so the information must be incorrect."*

The SPA's Position

19. In the IR Response, the SPA said that:

"Lowest assessment appealed – 5,000 quarters; highest assessment appealed – 27,000 quarters

Internal review – this response is correct"

20. In its submission to the Commissioner, the SPA noted that the Complainant had requested a "Review" of their assessment and that following review, the assessment was reduced. This "Review" takes place before any formal appeal. Specifically, the SPA said that *"The Appeal is against the decision on Review, hence the assessment at the time of the Appeal was [the reduced number of quarters] and not 30,5000. See Articles 10(8) and 45(1) of the Rates (Jersey) Law 2005. Another Appeal was submitted against a rateable value of 27,000 quarters so this was the highest assessment subject of an appeal."*

Analysis

21. Art.9 of the Rates Law provides that on application, the Assessment Committee may review an assessment. Art.10(8) of the Rates Law goes on to provide that "(8) A person given notice may appeal to the Rate Appeal Board against the decision".
22. There appears to have been some confusion on the Complainant's part as to certain terminology applicable to relevant parts of the rates assessment process. It is clear that the Complainant's example of reductions applies to the initial Review under Art.9 of the Rates Law not the formal appeal provided for at Art.10(8).

Commissioner's Decision

23. There is no other information suggesting that the information provided by the SPA in response to this question is incorrect. Accordingly, the Commissioner is satisfied with the response provided by the SPA and there are no further steps the Commissioner expects the SPA to take in respect of Question 2.
24. Appeal rejected.

Question 3: The total number of R5 request to reviews submitted in 2024

The Complainant's Position

25. The Complainant says that the SPA has failed to give an answer in its Internal Review Response.

The SPA's Position

26. The SPA noted that this question did not appear to have been raised or formed part of the Complainant's IR Request. In any event, it maintained its reliance upon the exemption provided for at Art.23 of the FOI Law, namely that the information was accessible to the Complainant by other means and a link to the relevant information had already been provided to the Complainant in the original Response.

Analysis

27. The information requested has already been subject of a FOI request and is published on the website of the Comité de Connetables on 30 July 2024 [here](#). This link was provided to the Complainant in the Response showing that 47 applications for review had been made in 2024.

Commissioner's Decision

28. The Commissioner is satisfied that the information requested at Question 3 is reasonably accessible to the Complainant by other means and that the exemption was appropriately applied by the SPA. There are no further steps the Commissioner expects the SPA to take in respect of Question 3.
29. Appeal rejected.

Question 4: The total number of Rates Clinics held

The Complainant's Position

30. In their complaint, the Complainant said that *"Clinics are separate meetings with individual rate payers to discuss assessments. The reply only gives the three dates clinics were planned, not the number of clinics/meetings. Each meeting is a separate event. clinics (sic) were actually held on other days to those notified in the response. Multiple clinics/meetings were held on each date. The number separate clinics has not been provided."*

The SPA's Position

31. In its response the SPA noted that *"Members of the Assessment Committee offered three dates (referred too as 'clinics') when ratepayers could discuss any queries with their assessments..."*. In its IR Response, the SPA maintained that this response was correct. It also maintained this view in its submissions to the Commissioner noting that *"The Applicant considers that each meeting with a ratepayer is a separate "clinic". The FOI response explained this is not the case – Members of the Assessment Committee offered three dates (referred to as 'clinic's) when ratepayers could discuss any queries with their assessments... A "clinic" is a drop-in session though a ratepayer may also ask for a specific time to attend a "clinic" to discuss an assessment (or for a member of the Assessment Committee to telephone the ratepayer if they are unable to attend)..."* The SPA goes on to advise that there may be a variety of reasons for individuals to attend the clinics; some of which are minor queries (not recorded) to having minor errors corrected (which can be done pursuant to Art.9(6) of the Rates Law) or more substantive matters that could lead to a request for a review under Art.9(1) of the Rates Law.
32. The SPA's view in essence was that each "clinic" may comprise multiple discussions and that if that is the information sought by the Complainant, then such is simply not recorded by the SPA.

Analysis

33. It is clear that the Complainant wants to know how many individuals attended each clinic. The SPA says that it does not hold the information requested i.e. the SPA did not record how many people attended at each of the three separate clinics.
34. A SPA's duty under Art.8 of the FOI Law applies to information that it holds. Art.3 of the FOI Law states that information will be held by a SPA both where it holds the information (otherwise than on behalf of another person) and where another person holds the information on its behalf. Information will be held if the SPA can compile or extract it from raw data in its possession and collate the information to provide to the requester.

Commissioner's Decision

35. The Commissioner is satisfied that the SPA does not "hold" the information requested by the Complainant because it simply did not keep a record of each separate conversation it had at each of the three clinics. There are no further steps the Commissioner expects the SPA to take in respect of Question 4.
36. Appeal rejected.

Question 5 – the number of rates clinics held without an R5 form being submitted

The Complainant's Position

37. The Complainant says that *"The Grouville rates Assessors and individual rate payers have confirmed to me that clinics/meetings were held with rate payers who had not submitted an R5 form. The number of such clinics has not been provided."* The Complainant also advised the Commissioner that they had met with *"several rate payers who attended clinics without having submitted an R5 form...At my clinic I specifically asked if the Assessors were holding clinics and conducting reviews of assessments after rate payers had requested a review without completing an RS. The Chairman Mr Burnett confirmed this was the case. I am aware that at least 2 assessments were reduced without an RS submitted."*

The SPA's Position

38. In its submissions to the Commissioner, the SPA again referred to the purpose of the clinics and noted that attendance at such is not reliance on an R5 form having been submitted (see comments made at para.29 above) and noting that *"The purpose of the "clinic"... is an informal meeting and is not dependent on having submitted a Review request (the R5 form being an application for Review). The number of "clinics" is the dates advertised, not separate meetings with ratepayers..."*

Analysis

39. It is clear that the Complainant wants to know how many individuals attended each clinic without having submitted an R5 form. The SPA says that it does not hold information about how many individuals attend each clinic or the purpose for their attendance/what is discussed.

Commissioner's Decision

40. The Commissioner reiterates the comments made at para.32 above and is satisfied that the SPA does not "hold" the information requested by the Complainant because it simply did not keep a record of each separate conversation it had at each of the three clinics (which would include whether or not anyone had submitted an R5 form). There are no further steps the Commissioner expects the SPA to take in respect of Question 5.

41. Appeal rejected.

Question 6 and 7 – the number of assessments amended as a result of a "request to review", with or without an R5 being submitted AND the number of assessments that were not amended after a "request to review", with or without an R5 being submitted

The Complainant's Position

42. The Complainant did not agree with the SPA's initial Response that *"On review, amendments were made to 32 assessments"* and in their IR Request said that *"...I am aware that some rate payers requests a review of their rates without an R5 form and the Assessors subsequently reduced their assessment. I request the number of adjustments adjusted as a result of any reviews by the Assessors"*. Similarly, in their complaint to the Commissioner, the Complainant stated that *"The response quotes certain legal requirements related to the rates law which are irrelevant to the request made. The review response only gives the number of draft assessments that were reduced without a R5 being submitted. I know that some assessments were amended without an R5 so the response must be incorrect."*

43. Similarly, the Complainant did not agree with the SPA's initial Response that *"On review, 15 assessments were maintained"* and in their IR Request said that *"The 15 cases only related*

to where an R5 was submitted. I am aware other rate payers did not have their assessments reduced and did not submit an R5, so 15 cannot be a correct figure. These rate payers may or may not have gone to on to appeal."

The SPA's Position

44. The SPA noted that the wording used in the Complainant's appeal was subtly different to the wording used in the original Request and queried whether the Complainant was seeking new information that was not sought as part of that Request as in their appeal, the wording used by the Complainant related on *"The number of changes made to assessments made with or with an R5 being submitted"*.
45. In their submission to the Commissioner, the SPA stated that *"The FOI response stated the number of assessments amended/not amended as a result of a request to Review. It also pointed out that an R5 form is required to request a Review (this is because a Review of a rateable value may only be made on the grounds set out in Article 9(3) of the Rates Law, and these details are provided in writing). The wording in the Appeal is not the same as the FOI request as it omits 'as a result of a 'request to review'..."* As stated above, Article 9(6) permits an Assessment Committee to correct a factual/typographical/other error and this would not require an R5 form as it is not a Review..."
46. In response to additional queries, the SPA also noted that *"With regards to the matter of other parishioners having had rates assessments changed without R5 being submitted, this is correct. Article 9(6) provides for correction by the Assessment Committee of "any factual or typographical or similar error..." at any time. For example, if when attending a 'clinic' the ratepayer clarifies/corrects the attributes then the rateable value may be changes accordingly. We note that the FOI request only refers to 'reviews' and 'R5 forms', it does not refer to errors which are corrected."* They also noted that an R5 form is a legal requirement, but that in certain instances, the relevant information was verbally provided to the relevant ratepayer to the Assessor who then recorded the details on the R5 form.

Analysis

47. The Commissioner has considered the SPA's response in line with the wording of the original Request i.e. the number of assessments amended (or not, as the case may be) after submission of a "request to review" under Art.9 of the Rates Law, with or without an R5 being submitted.
48. Before the Commissioner, where there is any dispute about whether a SPA holds information, the issue will be decided according to the balance of probabilities and whether it is more likely than not that a public authority holds (or does not hold) requested information. It will rarely be absolutely certain either way, and that information relevant to a request does not remain undiscovered somewhere within a SPA's records. The Commissioner is, as a general principle, entitled to accept *"the word of the public authority and not to investigate further"* where there is no evidence of an inadequate search, any reluctance to carry out a proper search or of any motive to conceal information it actually holds¹.

Commissioner's Decision

¹ See Oates v Information Commissioner (EA/2011/0138)

49. The Commissioner notes the specific wording attached to the original Request and is satisfied with the response provided by the SPA and the reasons supplied by it about why the figures provided by it may not accord with the Complainant's views. There are no further steps the Commissioner requires the SPA to take in respect of Question 6 or Question 7 but they may wish to consider providing the Complainant with information relating to assessments that were revised with reference to Art.9(6) of the Rates Law.

50. Appeal rejected.

Question 9 – the smallest reduction in quarters resulting from a “request to review”

The Complainant's Position

51. The Complainant disagreed with the SPA's application of the exemption provided for at Art.25 of the FOI Law which the SPA applied at the point of its initial Response. In their IR Request, the Complainant said that *"The providing of a discrete number of quarters without any personal information does not constitute personal information"*. Whilst the SPA noted that *"there are fewer than 5 reductions and it may be possible to identify the property and thus the person) by comparing 2023 and 2024 Rates Lists"* in its IR Response, the Complainant did not agree with the SPA's continued reliance on this exemption. In their appeal to the Commissioner, the Complainant's view was that *"The initial response and review state this information is exempt by Article 25. Only a specific and discrete number of quarters is requested it is not possible to identify any personal data and so should be provided. This information is not available elsewhere in the public domain as stated in the review response."*

The SPA's Position

52. In addition to explanations provided in its Request Response, and IR Response, the SPA was invited to provide submissions to this office and to advise the Commissioner of the contents of the Withheld Information. It provided the Commissioner with copies of that information in unredacted format.

53. In its submission to the Commissioner, the SPA essentially maintained its reliance on the Art.25 exemption indicating that if it released the requested information to the Complainant, that this would enable identification of the property benefiting from any reduction, which would then make any property owner/occupier identifiable i.e it would be obvious who had requested the review. The SPA did not consider that it would be lawful to provide the Complainant with the information requested.

54. The SPA contends that the Withheld Information constitutes personal data and to release their information would breach Art.8(1)(a) and Art.8(1)(f) of the DPJL 2018. That article reads as follows:

"8 Data protection principles

(1) A controller must ensure that the processing of personal data in relation to which the controller is the controller complies with the data protection principles, namely that data are

(a) processed lawfully, fairly and in a transparent manner in relation to the data ("lawfulness, fairness and transparency")...

(f) processed in a manner that ensures appropriate security of the data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organizational measures ("integrity and confidentiality")"

55. The SPA submits that it is not fair in these particular circumstances to release the Withheld Information because that would lead to identification of the individual owner/occupier who had received the smallest reduction following submission of a Review. Specifically, the SPA drew the Commissioner's attention to the fact that the names of owners and occupiers was specifically removed from the published Rates List in 2016 and that, in the SPA's opinion, *"the owner/occupier of the land would not expect it to be made public that he/she had requested a Review of the rateable value. That information is not currently in the public domain"*.
56. The SPA also referred the Commissioner to its published [privacy notice](#) and [Appendix](#) which does not suggest sharing of Parish Rates information with other islanders including in response to an FOI request and considered that releasing such information could lead to damage/distress to that person.
57. The SPA does not consider that releasing this data is essential due to any of the factors described above, and therefore the reliance on Art.25 of the FOI Law was appropriate in these particular circumstances.

Analysis

58. The full text of Art.25 of the FOI Law can be found in the Legal Appendix at the end of this Decision Notice.
59. Art.25 specifies that personal data is exempt from disclosure if its disclosure would breach any of the data protection principles contained within the relevant data protection legislation in force at the time the decision to withhold the information was made.
60. Art.2 the Data Protection (Jersey) Law 2018 (**DPJL 2018**) defines personal data as follows:
- "(1) Personal data means any data relating to a data subject.*
 - (2) A data subject is an identified or identifiable, natural, living person who can be identified, directly or indirectly, by reference to (but not limited to) an identifier such as –*
 - (a) a name, an identification number or location data;*
 - (b) an online identifier; or*
 - (c) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the person.*
 - (3) The following matters must be taken into account in deciding whether the person is identified or identifiable –*
 - (a) the means reasonably likely to be used by the controller or another person to identify the person, taking into account factors such as the cost and amount of time required for identification in the light of the available technology at the time of processing and technological factors;*

- (b) *whether the personal data, despite pseudonymization, is capable of being attributed to that by the use of information other than that kept separately for the purposes of pseudonymization.*"

61. The Commissioner has previously considered the concept of what constitutes personal data in an FOI context. Specifically looking at whether the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual" and whether the data impacts or have the potential to impact on an individual, whether in a personal, family, business or professional capacity.
62. The SPA has indicated that the relevant individuals are likely to be identified from the requested information and the Commissioner has had sight of the unredacted information.
63. The Commissioner is satisfied that the Withheld Information falls within the definition of personal data.
64. The fact that information constitutes the personal data of identifiable living individuals does not automatically exclude it from disclosure under the FOI Law. The second element of the test is to determine whether disclosure would contravene any of the principles set out at Art.8 of the DPJL 2018.

Would disclosure of the Withheld Information contravene Art.8(1)(a) and/or (f) of the DPJL 2018?

65. The Commissioner has had to consider whether to release the Withheld Information would breach one of the principles set out at Art.8 of the DPJL 2018. In this case, the SPA considers that it is not fair to release the Withheld Information into the public domain and refers to Art.8(1)(a) and (f) of the DPJL 2018 in this regard.
66. Art.9 of the DPJL 2018 sets out the requirements for lawful processing by providing that "processing shall be lawful only if and to the extent that at least one of the" conditions specified in Schedule 2 of the DPJL 2018 applies.
67. The Commissioner considers that the lawful basis most likely applicable in this case is the basis set out at Schedule 2 Part 1 para.4(d) of the DPJL 2018 which states:

"The processing is necessary for –

...

(d) the exercise of any other functions of a public nature with a legal basis in Jersey law to which the controller is subject and exercised in the public interest by any person."

68. In deciding whether disclosure of personal data would breach Art.8(1)(a) and/or (f) of the DPJL 2018, the Commissioner takes into account a range of factors including:
- a. The reasonable expectations of the individual in terms of what would happen to their personal data. Such expectations could be shaped by:
 - i. What the public authority may have told them about what would happen to their personal data;
 - ii. Their general expectations of privacy, including the effect of Art.8 of the European Convention on Human Rights (ECHR);

- iii. The nature or content of the information itself;
- iv. The circumstances in which the personal data was obtained;
- v. Any particular circumstances of the case, e.g. established custom or practice within the public authority;
- vi. Whether the individual consented to their personal data being disclosed or, conversely, whether they explicitly refused;
- vii. The consequences of disclosure (if it would cause any unnecessary or unjustified damage or distress to the individual concerned); and
- viii. The balance between the rights and freedoms of the data subject and the legitimate interest of the public.

69. Notwithstanding the data subject's reasonable expectations or any damage or distress caused to them by disclosure, it may still be appropriate to disclose the Withheld Information if it can be argued that the processing is necessary, and the rights of affected data subjects can be protected.

70. In Decision Notice 2018-01², this office considered, in depth, the application of Art.25 of the FOI Law. Those comments are not repeated but in respect of information that may be in the public interest *"deciding how to apply article 25 of the FOI Law to cases, such as the present, involves balancing the privacy rights of the individual against the public interest in disclosure. Taking a proportionate approach involves two key considerations. The first is the nature and sensitivity of the information at issue ... The second consideration concerns that nature of the public interest that disclosure of the information would serve. The term 'public interest' or 'interest of the public' appears in many statutes throughout the Commonwealth, but such statutes rarely, if ever, provide a definition of the term or any guidance for evaluating the circumstance of specific cases. This leaves it open to variation in interpretation. I agree with the SPA that the term public interest is more specific than 'what the public finds to be interesting'. It does not refer to interest in the sense of being entertaining. **The term public interest concerns the public having a stake or right that is at issue rather than simply mere curiosity. This term applies in circumstances where an event or development is likely to affect tangibly the public in general.**"*

71. The Commissioner notes that Art.14 of the Rates Law sets out a requirement for the Approved Rates List to be made available:

"14 Parish to make Approved Rates List available

(1) As soon as practicable after a Rates List for a parish has been approved by the Supervisory Committee, the Connétable of the parish shall make a copy of it available for inspection at the offices of that parish, at the Library and in such other manner as the Supervisory Committee may direct.^[6]

² <https://oicjersey.org/wp-content/uploads/2018/11/Decision-Notice-2018-01-FINAL.pdf>

(2) *A parish shall allow copies of all or any part of its Approved Rates List to be taken at the offices of that parish, or at the Library and the parish or the Library (as the case may be), may charge such fee for copying as is reasonable.*^[7]

(3) *If a Rates List is amended after it has been approved, the Connétable of the relevant parish shall ensure that any copy of the List made available for public inspection in accordance with paragraph (1) is amended accordingly."*

72. The SPA has essentially stated that if the Withheld Information is released that this would allow jigsaw identification of the individual requesting the review as it would be possible to compare the 2023 and 2024 Approved Rates List to work out which property had seen a decrease in the relevant value in 2024.

73. On balance, whilst the Commissioner understands the SPA's cautious approach, it is a fact that the Approved Rates List clearly sets out the rates for properties in a Parish and that list is open to inspection by members of the public, who may take copies of it. It is therefore already possible for the Complainant to identify the property that has received a reduction from the prior year. The legislature have concluded that rates information should be publicly available for scrutiny and that is embodied in the relevant provisions in the Rates Law and the Withheld Information is not special category (sensitive) information. Disclosure of the Withheld Information would not reveal anything new beyond that which is already in the public domain.

74. The SPA said that damage/distress could be suffered by the owner/occupier if the Complainant was provided with the Withheld Information, but did not explain why they thought this, particularly in the context of information that was already in the public domain (albeit it would require some active investigation on the Complainant's part). They had not reached out to the owner/occupier to ask for their views.

Commissioner's Decision

75. Bearing in mind the above and the purposes for which the Withheld Information is being processed, the fact that information about the rates applicable to a particular property are already in the public domain, the Commissioner does not consider that it would be a breach of the relevant provisions of the DPJL 2018 and upholds this aspect of the appeal.

76. Appeal upheld. The SPA must disclose the Withheld Information relating to this Question 9.

Question 10 – the average reduction in quarters arising from a "Request to Review"

The Complainant's Position

77. The Complainant does not believe that the figure quoted by the SPA in its Response (as upheld in its IR Response) that "*The average reduction over 32 assessments was 3,135.94 quarters*" is correct. This is because "*It does not take account of the other requests for reviews raised at the clinics, some of which resulted in assessments being reduced, without the form being submitted*".

The SPA's Position

78. The SPA considers that it responded to the question asked, which was for reductions made following formal reviews, again noting in its response that Art.9(6) of the Rates Law

"permits the Assessment Committee to correct a factual, typographical/other error and found this would not require an R5 form as it is not a Review."

Commissioner's Decision

79. The Commissioner notes the specific wording attached to the original Request and is satisfied with the response provided by the SPA and the reasons supplied by it about why the figures provided by it may not accord with the Complainant's views. There are no further steps the Commissioner requires the SPA to take in respect of this Question.

80. Appeal rejected.

Question 11 – the total number of quarters removed from the draft rates list as a result of the Requests to Review reviewed

The Complainant's Position

81. The Complainant does not agree with the SPA's Response which stated that *"The amendments made on review of 32 assessments resulted in a reduction of 100,350 quarters (in 2023 Parish rates were paid on 78,624,636 quarters – see page 22 of the [Signed Parish of Grouville 2023 Accounts])"*. In their appeal to the Commissioner, the Complainant notes that *"The total number of quarters removed from the (May 2024) draft rates list as a result of the reviews, compared to the signed off and approved Grouville Rates list (September 2024). The response only refers to and includes the 32 cases where the R5 was submitted so is incorrect."*

The SPA's Position

82. The SPA maintains its stance that on Review, only *"32 rateable values were reduced and the total reduction was provided in the FOI response"*. It also noted that The Grouville Rates List for 2024 was signed by the Supervisory Committee on 12 July 2024 following completion of the reviews and that at that stage *"several appeals had still to be considered and the Approved Rates List was amended for the appeal decisions at the meeting on 16 September 2024"*.

Analysis

83. The Commissioner does not repeat comments and decisions made earlier in this document regarding the 32 cases. In respect of the information provided, the Complainant is entitled to information that is held by a SPA at the point a request is submitted i.e. such as it was at 25 July 2024. At that time, the accounts had not been finalised (this was not until 16 September 2024).

Commissioner's Decision

84. The SPA's response was correct.

85. Appeal rejected.

Question 12 – The total number of properties assessed in Grouville in 2024 using the written assessment guidelines issued in March 2024

The Complainant's Position

86. The Complainant did not consider that this aspect of the Request had been responded to by the SPA. In their appeal, the Complainant advised that *"The Grouville Rates Assessors have confirmed that the guidelines were used in respect of "less than 100" properties. Using the guidelines the number of quarters assigned to a property was adjusted for most. The initial response and review fails to give the actual number which is what was asked for."*

The SPA's Position

87. The SPA says that the information is simply not held i.e. it has not kept a record/does not have information recorded of the properties assessed using the written guidelines.

Analysis

88. As previously stated, a SPA's duty under Art.8 of the FOI Law applies to information that it holds. Art.3 of the FOI Law states that information will be held by a SPA both where it holds the information (otherwise than on behalf of another person) and where another person holds the information on its behalf. Information will be held if the SPA can compile or extract it from raw data in its possession and collate the information to provide to the requester.

Commissioner's Decision

89. The Commissioner is satisfied that the SPA does not "hold" the information requested by the Complainant because it simply did not keep a record of each time it applied the guidelines.

90. Appeal rejected.

GENERAL MATTERS

Art.13 Time within which a scheduled public authority must deal with a request for information

The Complainant's position

91. The Complainant complained of delays in responding to the Request and IR Request. Specifically, the Complainant stated that:

"The initial request was made on 25th July 2024. A reply was received on 23 rd August , 29 days later, in which only one of the requests was met.

On 4th September a request for an independent review of the responses was made. That was replied to 56 days later, even though the respondents own policy states reviews should be made within 20 days...

The denial of this information, and the delays in responding to the request and subsequently conducting a review, has prevented relevant information being made available to the rate payers of Grouville in time for approval of the parish 2023 accounts, and more importantly the setting of the value of the rate per quarter for the rateable year 2024/25. This would represent a significant failure of governance and is indicative of an administration unwilling to engage meaningfully with its legitimate stakeholders.."

The SPA's position

92. In its response to the Commissioner, the SPA did not agree with a suggestion that the Response had been provided outside the legal timeframe and whilst acknowledging that there had been a delay with the IR Response, it suggested that the Complainant had been advised of the reasons for it. Specifically:

"The request PFOI-2024-27 was sent by email dated Thu 25/07/2024 at 17:49 so received after close of business, it was acknowledged on Fri 23/08/2024 (sic). The response was issued Fri 23/8/2024 so 20 working days (Article 13(2)(a) of the FOI Law refers to 20 working days).

- *The Internal Review was conducted by the Chairman of the Comité des Connétables.*

The Applicant says "On 4th September a request for an independent review of the responses was made. That was replied to 56 days later, even though the respondents own policy states reviews should be made within 20 days."

- *The internal review was received 4/9/2024 at 15:43 and acknowledged on 05/09/2024.*
- *An email was sent 15/10/2024 to advise a delay in completing the internal review –*

Dear [NAME OF COMPLAINANT], please accept my apologies for the delay in responding to the internal review request owing to staff sickness in this office. Your request has not been overlooked and we expect to respond in the next week.

- *The internal review response was issued on 1/11/2024 with the following covering email:*

Dear [NAME OF COMPLAINANT]

Thank you for your email regarding the response issued to your Freedom of Information request reference PFOI-2024-27. An internal review has been carried out and the amended response is attached..."

Analysis

93. Art.13(2)(a) of the FOI Law stipulates that a SPA must supply information no later than *"the end of the period of 20 working days following the day on which it received the request"*.
94. There is no definition within the FOI Law about what constitutes a standard "day" but having regard to the principle set down in the UK Tribunal case of *Berend v. ICO and London Borough Richmond upon Thames (EA/2006/0049 & 50, 12 July 2007)* which stated that *"There is no definition within the Act as to the length of a day and in the absence of such definition, we are satisfied that a day ends at midnight..."* (paragraph 63), the Commissioner's position is that the day on which an organisation receives a request means taking receipt at any point that day up until midnight, even if such is received into the organisation after working hours.
95. The SPA received the Request on 25 July 2024 at 17:49pm, and therefore the Response ought to have provided on 22 August 2024. The SPA was, therefore, a single day late in providing the Response.

96. As to the IR Response, if the SPA was adhering to its stated policy of providing a response within 20 working days³, this ought to have been provided on 2 October 2024. The SPA was, therefore, already at 29 working days when it advised the Complainant of the delay on 15 October 2024, and it ultimately took 48 working days to provide the IR Response.

97. The FOI Law does not set out the timeframe a SPA has to conduct an Internal Review but whilst this is not a breach of the FOI Law it does not demonstrate good practice, and any delays ought to have been communicated to the Complainant before the expiry of the 20 day response deadline envisaged in the SPA's own policies.

Commissioner's Decision

98. Whilst the Commissioner finds that the SPA was a single day late in providing its Response to the Complainant and therefore a technical breach of Art.13(2)(a), there are no further steps required.

99. Appeal rejected

The Decision

100. The Commissioner considers that in respect of Question 9 the SPA misapplied Art.25 in respect of the Complainant's request for "*the smallest reduction in quarters from a "request to review"*" and this aspect of the Complainant's appeal is upheld. The SPA must provide the Withheld Information to the Complainant within the next 28 days.

101. However, the Commissioner considers that in respect of all other matters, the SPA has responded to the request for information appropriately in this case. The appeal in respect of those matters is rejected.

Right of Appeal

102. An aggrieved person has the right to appeal against this Decision Notice to the Royal Court of Jersey.

103. Any Notice of Appeal should be served within 28 (calendar) days of the date on which the Decision Notice is issued.

Dated this 27 day of February 2025



Signed.....

Mr Paul Vane

Information Commissioner
Office of the Information Commissioner
5 Castle Street
St Helier
Jersey

³ <https://comite.je/wp-content/uploads/sites/13/2021/11/FOI-parishes-internal-review-2019-April.pdf>

Legal Appendix

8 General right of access to information held by a scheduled public authority

If a person makes a request for information held by a scheduled public authority –

- (a) the person has a general right to be supplied with the information by that authority; and
- (b) except as otherwise provided by this Law, the authority has a duty to supply the person with the information.

9 When a scheduled public authority may refuse to supply information it holds

(1) A scheduled public authority may refuse to supply information it holds and has been requested to supply if the information is absolutely exempt information.

(2) A scheduled public authority must supply qualified exempt information it has been requested to supply unless it is satisfied that, in all the circumstances of the case, the public interest in supplying the information is outweighed by the public interest in not doing so.

(3) A scheduled public authority may refuse to supply information it holds and has been requested to supply if –

- (a) a provision of Part 3 applies in respect of the request;
- (b) a fee payable under Article 15 or 16 is not paid; or
- (c) Article 16(1) applies.

13 Time within which a scheduled public authority must deal with a request for information

(1) A scheduled public authority must deal with a request for information promptly.

(2) If it supplies the information it must do so, in any event, no later than –

- (a) the end of the period of 20 working days following the day on which it received the request; or
- (b) if another period is prescribed by Regulations, not later than the end of that period.

(3) However, the period mentioned in paragraph (2) does not start to run –

- (a) if the scheduled public authority has, under Article 14, sought details of the information requested, until the details are supplied; or

- (b) if the scheduled public authority has informed the applicant that a fee is payable under Article 15 or 16, until the fee is paid.
- (4) If a scheduled public authority fails to comply with a request for information –
 - (a) within the period mentioned in paragraph (2); or
 - (b) within such further period as the applicant may allow,

the applicant may treat the failure as a decision by the authority to refuse to supply the information on the ground that it is absolutely exempt information.
- (5) In this Article “working day” means a day other than –
 - (a) a Saturday, a Sunday, Christmas Day, or Good Friday; or
 - (b) a day that is a bank holiday or a public holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951^[4].

18 Where a scheduled public authority refuses a request

The States may, by Regulations, prescribe the manner in which a scheduled public authority may refuse a request for information.

25 Personal information

- (1) Information is absolutely exempt information if it constitutes personal data of which the applicant is the data subject as defined in the Data Protection (Jersey) Law 2005.
- (2) Information is absolutely exempt information if –
 - (a) it constitutes personal data of which the applicant is not the data subject as defined in the [Data Protection \(Jersey\) Law 2018](#); and
 - (b) its supply to a member of the public would contravene any of the data protection principles, as defined in that Law.^[3]
- (3) In determining for the purposes of this Article whether the lawfulness principle in Article 8(1)(a) of the [Data Protection \(Jersey\) Law 2018](#) would be contravened by the disclosure of information, paragraph 5(1) of Schedule 2 to that Law (legitimate interests) is to be read as if sub-paragraph (b) (which disapplies the provision where the controller is a public authority) were omitted.^[4]