



# HOUSE OF COMMONS

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14 October 2009

*G Sittampalam*

Internal Reviews-FO9-343 & FO9-562

Thank you for your request for an internal review of your Freedom of Information requests F09-343 and F09-562. We are sorry that it has taken so long to respond to your original request. This letter also deals with your request F09-481, which is on a related matter.

Full and unredacted copies of the claims of Mr Djanogly and Mr Lansley cannot be disclosed under the FOI Act, as they will contain the following:

- Information that relates to any residential address of a Member of the House of Commons.

By virtue of the Freedom of Information (Parliament and National Assembly for Wales) Order 2008 (made under Section 7 of the Freedom of Information Act 2000) the House of Commons is not a public authority in respect of such information. Therefore the right of access to information under section 1 of the Freedom of Information Act 2000 does not apply.

- Information that constitutes the personal data of Members of Parliament, staff and other third parties.

Personal data is exempt from disclosure under section 40(2) and 40(3)(a)(i) of the FOI Act if it cannot be disclosed without contravening the data protection principles. This is an absolute exemption so consideration of the public interest is not required.

- Information where disclosure to the public would pose an unacceptable risk to the health and safety of Members, staff and third parties.

HOUSE OF COMMONS

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INVESTOR IN PEOPLE

Information cannot be disclosed if it would endanger the safety of any individual (exempt under section 38(1)(b) of the FOI Act). This is a qualified exemption. We consider that the risk and implications posed by disclosure are such that the public interest in withholding the information outweighs arguments in favour of greater public scrutiny. Therefore the exemption is maintained.

The redactions for the published copies of the Members' allowances documentation were undertaken to ensure that the privacy and security of MPs, staff and other third parties was guaranteed. Please refer to the editing instructions that were used for this process, which can be found here:

<http://www.parliament.uk/deposits/depositedpapers/2009/DEP2009-1877.doc>.

We therefore need to consider each document individually to determine what is covered by the FOI Act, and to what an exemption might apply. Our estimates of the time taken to do this (and we are aware of what may properly constitute that time) show that it is not possible to consider all of either Member's allowances information within the 24 hour reasonable time limit. We are, however, obliged to do 24 hours worth of work in handling your request.

We therefore propose to prepare for disclosure as many pages as we are reasonably able to prepare within the 24 hour limit in line with the provisions of the section 12 and the associated fees regulations. That work is in hand and will be sent to you when it is done. At this stage, we cannot commit to the specific number of pages that this will be. We will consider the papers in the order you have indicated, that is, starting with 2004/05 papers and finishing with 2007/08 papers.

For the reasons outlined below, we are not able to release any papers which relate to ACA claims before the review led by Sir Thomas Legg into all claims made against the second homes allowance has been completed. The ACA papers that we are able to consider within the reasonable limit will be prepared as requested, but they will not be disclosed to you whilst the review by Sir Thomas Legg is ongoing.

The House considers that the provision of data before Sir Thomas Legg has reported would be unfair processing of personal data. Disclosure to the public generally would be unfair to the Member concerned who would have to deal both with media speculation on such disclosures and with presenting his case or point of view to the inquiry. We have therefore concluded that, until the Legg review has been finalised, the exemption set out in 40 (2) and (3)(a)(i) of the Freedom of Information Act applies. This exemption releases public authorities from the obligation to disclose information when this action would not be consistent with the data protection principles, in particular the fairness with which data is processed. This is an absolute exemption and the public interest does not apply. The relevant paragraph

of Schedule 2 to the Data Protection Act is paragraph 6.

Furthermore, the House considers that the provision of ACA data before Sir Thomas Legg has reported could prejudice the exercise by the House, through Sir Thomas's review, of its functions in ascertaining whether any person is responsible for conduct which is improper. Such information is exempt from disclosure under section 31 (1)(g) and (2)(b) of the FoI Act. There is a public interest in the transparency of the allowances system. However, while Sir Thomas's inquiry is in progress, the House considers that the public interest is in maintaining the fairness of the inquiry. We will contact you again shortly with the information which we are preparing.

If you remain dissatisfied with our response, you may appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



A J Walker  
Director General of Resources

