

The Electoral Commission

Circular EC11/2004

Sale of the full register of electors to registered credit reference agencies

02 April 2004

For the information of:

- **The Chief Electoral Officer**
Northern Ireland
- **The Acting Returning Officer**
Parliamentary constituencies in England and Wales
- **Regional Returning Officers in Great Britain**
- **The Returning Officer**
Parliamentary constituencies in Scotland
Local government areas in England, Wales and Scotland
- **The Electoral Registration Officer/Assessor**
District, metropolitan borough and London borough authorities in England
Unitary authorities in England, Scotland and Wales

Purpose

1. The purpose of this circular is to provide further guidance to Registration Officers on sales of the full register of electors to credit reference agencies, and to withdraw the guidance given in circular EC56/2002.

Background

2. The Commission has received a number of recent enquiries about companies applying to purchase full copies of the register of electors.
3. No expression of views on the part of the Commission can alter the actual application of the legislation to any particular case, or substitute for any authoritative judicial interpretation of it. The Commission's role is to offer general assistance only, and it must be for the authority and its own legal advisers to reach conclusions based on the details of any particular case.

4. The Commission cannot confirm to any ERO that a company is registered as a credit reference agency and is carrying on the business of providing credit reference services. However, we hope that you will nevertheless find the following observations helpful.

Legal and policy context

5. Provision for the sale of the full register by the ERO to Credit Reference Agencies is made in the following regulations:
 - Regulation 114 of the Representation of the People (England and Wales) (Amendment) Regulations 2002
 - Regulation 113 of the Representation of the People (Scotland) (Amendment) Regulations 2002.
 - Regulation 107 of the Representation of the People (Northern Ireland) (Amendment) Regulations 2002.

These are referred to here as 'the relevant' regulations.

6. In this circular we make reference to the offences and defence given in Regulations 115 (England, Wales and Scotland) and 109 (Northern Ireland).

Credit reference agencies

7. Paragraph one of the relevant regulations states that to be eligible to be provided with the full copy of the electoral register a company must meet two requirements:
 - the company must be licensed as a credit reference agency under Part III of the Consumer Credit Act; **and**
 - the company must be 'carrying on the business of providing credit reference services'.
8. ^{is to be} The company has a responsibility to ensure that they comply with the requirements of the regulations and are eligible to request to purchase a copy of the full register of electors. The relevant regulations provide that any organisation that acquires a copy of the full register can only use it for the purposes for which it was supplied.
9. These purposes are given as follows:
 - a) vetting applications for credit or applications that can result in the giving of credit or the giving of any guarantee, indemnity or assurance in relation to the giving of credit;

- b) meeting any obligations contained in the Money Laundering Regulations 1993, the Money Laundering Regulations 2001 or any rules made pursuant to section 146 of the Financial Services and Markets Act 2000; and
 - c) statistical analysis of credit risk assessment in a case where no person whose details are included in the full register is referred to by name or necessary implication.
10. If any person in a company contravenes this and uses the register for other purposes they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. *(see entry 181000)*

The Office of Fair Trading

11. The Office of Fair Trading (OFT) is responsible for licensing credit reference agencies throughout the UK under the Consumer Credit Act and can confirm whether a company is so licensed. Contact details for the OFT are:

Telephone: 020 7211 8608

Address: Office of Fair Trading, Consumer Credit Licensing Bureau,
Craven House, 40 Uxbridge Road, Ealing, London W5 2BS

Website:

<http://www.offt.gov.uk/Business/Legal+Powers/Consumer+Credit+Act.htm>

12. In circular EC56/2002, Registration Officers were informed that the OFT could also advise on whether a company is carrying on the business of providing credit reference services. We now understand that this is **not** the case.

13. We are aware that some EROs are requesting a copy of the consumer credit licence issued to the company by the OFT. Although this proves that the company is licensed, the OFT inform us that this should not be taken as evidence that the company concerned is carrying on the business of providing credit reference services. *... the correct ...*

The Registration Officer

14. The relevant regulations only permit the Registration Officer to sell the full register to a company that meets the eligibility criteria in paragraph one. However, the regulations state that it is a defence to have 'taken all reasonable steps and exercised all due diligence to prevent' any contravention of the regulations.

Practice point

15. A first and reasonable step is for Registration Officers to request the company wishing to purchase the register to provide a copy of the consumer credit licence issued to them. This demonstrates that the company meets the first part of the criteria. We understand that there is a small charge for copies of licences from OFT. However, details of the licence can be provided by the OFT free of charge by telephone on 020 7211 8608 or by fax on 020 7211 8661.

1. Prove that a company is carrying on a business of providing credit reference services.
2. Prove that a company is licensed to provide such services.

16. However, the regulations also provide that an ERO 'may require a credit reference agency to provide such evidence that it is carrying on the business of providing credit reference services as he shall reasonably require'.

17. The question therefore arises as to what kind of evidence it would be reasonable to require, and what could a credit reference agency provide to satisfy the ERO that they are carrying on the business of credit reference services.

18. The regulations give an indication as to what 'credit reference services' include, as in paragraph 9 above. The regulations also provide the following definition:

"credit reference services" means the furnishing of persons with information relevant to the financial standing of individuals, which is information collected by the person furnishing it for the purpose of so furnishing it."

19. Despite enquiries, the Commission has concluded that that there is no independent and authoritative source of confirmation that a company is carrying on the business of providing credit reference services in the United Kingdom.

20. Therefore, an ERO may wish to consider the following second step when receiving a request from a company to purchase the full register according to the provisions of this regulation:

Request written confirmation from the company, signed by an authorised person within that company (ie Company Director), that

- they are fully aware of all the requirements of the relevant regulation (England and Wales; Scotland; Northern Ireland Regulations);
- they are a licensed credit reference agency; **and**
- that they are 'carrying on the business of providing credit reference services' according to the definition and purposes given in the regulation.

The written confirmation should also include the company registration number and relevant contact details for the company.

21. The ERO may wish to require the company to provide a new confirmation of the above information each year in order to ensure that the information is still current.

Contact point and further information

22. For further information, please contact Karen Quintmere on 020 7271 0571, kquaintmere@electoralcommission.org.uk or Sarah Gull on 020 7271 0571 sgull@electoralcommission.org.uk

Comms line.

Press Office Briefing

Subject: Sale of edited electoral register

Last updated: 14 July 2008

Background

BBC Watchdog have put in a Freedom of Information request to all Electoral Registration Officers requesting the following information:

- Are details in the full and edited register sold to third parties?
- What companies – name, address & contact number?
- How much does the council receive in payment – details required for 2004/5, 2005/6 & 2006/7?

Conversation on the AEA members forum suggests that EROs believe themselves to be exempt from FoI requests

UPDATE: 14 July 2008

The Information Commissioner has published a data sharing review in which he recommends that the edited register should not be sold for commercial purposes and therefore should be scrapped.

In our response to the report, the Commission re-iterated its view that the register should only be used for electoral purposes. However it said that the Commission believes that the register should not be used for law enforcement purposes. Whilst this view is true for credit reference purposes, the Commission now feels that the register may be used for law enforcement and national security reasons.

Lines to take

- Our view is that, as a matter of principle, electoral registers should be compiled exclusively for electoral and other limited statutory purposes and that they should not be made available for sale for commercial purposes
- We made this clear to the government in 2002 in response to a paper on Electoral Registers – Access, Supply & Sale.
- http://www.electoralcommission.org.uk/files/dms/registerresponse_7443-8645_ENSW.pdf
- We re-iterated our view on this matter in 2008, when we responded to the Thomas/ Walport review on data sharing
- <http://www.justice.gov.uk/docs/Electoral-Commission-Data-Sharing-Response.pdf>

Questions & Answers:

Q1. What's the difference between the two registers?

- Full register – Names and addresses of everyone who is registered to vote.

- Edited register - The edited register leaves out the names and addresses of people who have asked for them to be excluded from that version of the register.

Q2: Who can buy the electoral register?

- Edited register is available for inspection and sale to any party for any purpose
- The full register is to be available for the following purposes:
 - to allow qualifying electors to vote which is the primary purpose of the register
 - for related electoral purposes and to facilitate the democratic process (e.g. to assist candidates and political parties);
 - for public authorities, but only for the purposes of facilitating the discharge of their functions in relation to security, law enforcement and crime prevention
 - for public authorities for statistical and reference purposes
 - for sale to private bodies where this is necessary;
 - o to enable a body to meet its statutory obligations in relation to security, law enforcement and crime prevention
 - o to enable a body to conduct its business in such a manner whereby the public interest benefits clearly outweigh any interference with any Convention rights (*includes credit reference agencies*)

<http://www.dca.gov.uk/consult/elections/pdf/policypaper.pdf>

Q3: How much does it cost to buy the edited register?

- The amount is set out in legislation (Representation of the People Regulations 2001).
- In data format the fee is £20 plus £1.50 for each 1000 entries (or remaining part of 1000 entries) in it.
- In printed format the fee is £10 plus £5 for each 1000 entries (or remaining part of 1000 entries) in it.

Q4: How can people remove themselves from the edited register?

- Both the annual canvass forms & rolling registration forms have 'opt-out' boxes.
- Alternatively, you can contact your local ERO at any time and ask them to remove you from the edited register. Details can be found at www.aboutmyvote.co.uk

Q5: Did the Commission take part in the Data sharing review conducted by the Information Commissioner?

- Yes the Commission did take part in the review on data sharing and we pleased with the review's recommendation that "the Government removes the provision allowing the sale of the edited electoral register". (Recommendation 19, Para. 8.89)

- The Commission used this opportunity to reiterate its view that the electoral register should only be used for electoral purposes.
- The Ministry of Justice have published our response here:
- <http://www.justice.gov.uk/docs/Electoral-Commission-Data-Sharing-Response.pdf>

Q6. In your response to the Information Commissioner's report, you say that you do not believe that the register should be used for law enforcement purposes, why is that?

- The Commission's view on this has now changed. Whilst we are of the opinion that the electoral register should only be used for electoral and other associated purposes (nominating candidates etc.), we understand that there is a case for using it for the protection of National Security. However, we are still of the opinion that the register should not be used for credit reference purposes.

If pressed: Why did you think this in the past?

- *We were, and still are, of the opinion that the principle job of the electoral register should be for electoral purposes. However, we understand the case for using the register for law enforcement purposes.*

Q7: Does the EC support Electoral Registration Officers selling the edited register to interested parties?

- We remain of the view that, as a matter of principle, electoral registers should be compiled exclusively for electoral and other limited statutory purposes
- They should not be made available for sale for commercial purposes. See our full statement here:
http://www.electoralcommission.org.uk/files/dms/registersresponse_7443-6645_ENSW.pdf

Q8: What advice has the EC provided Electoral Registration Officers on this matter?

- We have issued a number of circulars to Electoral Registration Officers and advice on cover notes to ensure that electors are fully aware of the edited register and what the data can be used for.

http://www.electoralcommission.org.uk/files/dms/EC06-2006covernoteforlibraries_20491-15086_ENSW.doc

Q9: Does the EC feel anything needs to be amended/clarified in this area?

- In June 2002 the Commission called on the Government to reconsider the issue of principle and to restrict the use of the electoral register to electoral purposes alone, together with certain limited statutory purposes.
- We also believe strongly in individual voter registration. Currently the person who fills in the registration form chooses to opt-in or opt-out for all those on the form. Individual voter registration would provide individuals with greater control over their own data.

- The Electoral Commission believes the edited register should be compiled on an opt-in basis not an opt-out basis.
- It remains our view that these are areas which still need to be considered by Government

Q10: Are EROs exempt from FoI requests

- The Electoral Commission does not advise on FoI matters
- FOI issues should be addressed to the Information Commissioner

Louise Footner

From: Louise Footner
Sent: 23 February 2007 12:03
To: 'lynne.shackley@ico.gsi.gov.uk'
Cc: Kate Sullivan
Subject: Use of electoral register by credit reference agencies

Dear Lynne

I write further to our telephone conversation earlier today when we discussed the use of the electoral register by a credit reference agency.

I understand the Information Commission is investigating the possible use of the full register by a credit reference agency for the purpose of identifying whether there may be additional people living at addresses that are registered by a local authority as single occupancy. The Information Commission is considering whether such use complies with the Data Protection Act and, as part of your consideration, you asked for advice on the use that a credit reference agency can make of the electoral register.

The Representation of the People (England and Wales) Regulations 2001 set out the conditions under which certain organisations are entitled to receive and use the electoral register. Provisions regarding the sale of the full register and specified restrictions are at Regulations 110-114. Regulation 114 provides for the sale of the full register to credit reference agencies, however, this regulation must be read in conjunction with the preceding provisions.

You mentioned that the credit reference agency in question is Experian which, as I understand it, is an agency which satisfies the requirements of Regulation 114 in terms of being registered under Part III Consumer Credit Act 1974 and carrying on the business of providing credit reference services. Experian is therefore entitled to buy and use a full copy of the register under Regulation 114, but this entitlement is subject to conditions.

Regulation 112(3)&(4) restrict the use which a credit reference agency can make of the register to only those purposes set out in Regulation 114. Regulation 114(3) lists those purposes as:

- vetting applications for credit or applications that can result in the giving of credit, etc
- meeting money laundering or financial services obligations
- statistical analysis of credit risk assessment.

A credit reference agency may not use the full register for any other purpose and to do so would be an offence under Regulation 115.

I hope this assists. I would be happy to discuss or clarify the above if that would be helpful.

Regards

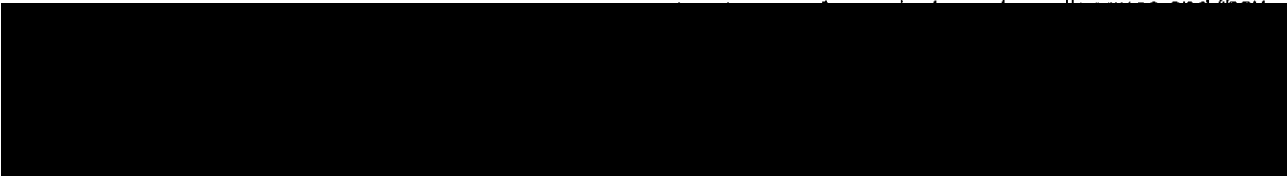
Louise

Louise Footner

From: Kawser Hamid [Kawser.Hamid@ico.gsi.gov.uk]
Sent: 16 April 2008 18:16
To: Louise Footner
Cc: James Pack
Subject: RE: Follow up to Friday's meeting

Hi Louise,

Alison and I also found it a very productive meeting. Thank you for the correspondence you have provided us with.



Regarding Experian, some of our private sector colleagues met with Experian today and I asked them to raise the issue of their use of the full register. I shall let you know what they found out.



Regards

Kawser

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18/04/2008

<http://www.ico.gov.uk> or e-mail: mail@ico.gsi.gov.uk

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Tel: 01625 545 700 Fax: 01625 524 510

-----Original Message-----

From: Louise Footner [mailto:lfootner@electoralcommission.org.uk]
Sent: 14 April 2008 12:30
To: Kawser Hamid
Cc: James Pack; Alison Wellens
Subject: Follow up to Friday's meeting

Kawser


Many thanks for Friday's useful telephone discussion. I attach, as discussed, emails relating to the following:



Experian

If/when we have any further information relating to any of the above we will of course let you know. In the meantime, we would be interested to know whether your private sector team has information that may be of relevance to the queries regarding 192.com and Experian.

<<Scanned documents>>

With best wishes  <<FW: Experian, QAS and the supply of electoral registration information.>>

Louise

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