

13 November 2009

K Hodgkinson and (Third party personal data)  
Sent via email to: (Third party personal data)  
request-21319-010e27ef@whatdotheyknow.com

**Email**

s-kavanagh@audit-  
commission.gov.uk

Dear K Hodgkinson and (Third party personal data)

## **Requests for information - RFI 1177, RFI 1188 and, RFI 1195**

Thank you for your requests for information received on 18 October (K Hodgkinson), 21 October (K Hodgkinson), 3 November (Third party personal data) and 12 November (Third party personal data) 2009.

This is a response to the requests of 18 October, 3 November and 12 November. We are taking the unusual step of responding to these three requests together for the reasons that appear below. I confirm that the Commission does hold information falling within each of the requests.

### ***Aggregation of requests for information***

As you may be aware section 12 of the Freedom of Information Act 2000 and associated regulations exempt public authorities from complying with requests for information if the estimated cost of complying exceeds the 'appropriate limit' of £450 (18 hours @ £25 per hour). The 'appropriate limit' is set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ('the Regulations').

The Regulations make provision for aggregating related requests when considering whether complying with them would exceed the 'appropriate limit'. Related requests can be those submitted by one person or by different persons who appear to be acting together. As you will be aware, the Commission considered and responded to a request for information submitted by (Third party personal data) on 23 September (Request 1) to which the Commission responded on 30 October 2009. The Commission is of the view that the requests from (Third party personal data) and K Hodgkinson are related requests on the basis that they meet the requirements that they have been submitted by the same person or by two different persons who appear to be acting together. The Commission is therefore treating these three requests as aggregated together and with Request 1 in accordance with the Regulations.

***General response to requests for information dated 18 October, 3 November and 12 November***

The requests dated 18 October, 3 November and 12 November extend to much of the same material covered by Request 1 which concerns the Commission's data matching exercise involving the electoral register and council tax records. When this particular matching exercise was extended nationally following pilot exercises at a number of London local authorities, some local authorities questioned the legal basis for including the electoral register in the matching exercise. This resulted in the Commission's legal team preparing various documents and briefings and instructing Counsel and the Commission entering into correspondence with local authorities and other organisations with an interest in the issues. Moreover the Commission was engaged with the Home Office and various other government departments in considering and implementing changes to the Audit Commission Act 1998 brought about by the passage of the Serious Crime Act 2007 in Parliament, which added the new Part 2A dealing with data matching. It may assist you to know that since the new legislation has come into force, much of the debate about our legal powers to obtain the electoral register has ended, and the great majority of authorities have no difficulty in providing their electoral register to the Commission for data matching purposes.

As a result, the Commission holds a significant quantity of information on this particular matching exercise which falls within the terms of your requests. A brief examination of the Legal Team's electronic filing system indicates that there are at least 800 documents and emails contained in at least 50 folders held by that team alone relating to this particular exercise. There may be many more depending on the precise ambit of your requests which we deal with below. Although not all of this information will be covered by your requests, the Commission would need to examine all the folders and a substantial number of documents within them in order to locate the information that you are seeking.

Therefore having carefully considered the requests dated 18 October, 3 November and 12 November, they are refused in their present form under section 12 of the Freedom of Information Act 2000. This is because I have concluded that the cost of locating all the information that you seek will exceed the 'appropriate limit' due to the time it would take to identify the information you are seeking in light of the volume of information held by the Commission on the electoral register and council tax data matching exercise. In reaching this conclusion, I have taken into account the time already spent in locating information to respond to Request 1 from (Third party personal data).

***Clarification of parts of the request dated 18 October 2009***

I have dealt with the information the Commission holds which falls within this request in the section above. In this section, I seek to clarify some of the statements made in your request and indicate where the Commission does not hold the requested information.

Please note that the extract from the Audit Commission's board minutes which you have quoted in this section refers to steps the Commission was contemplating might be taken against local authorities who were refusing to provide copies of the electoral register for the purposes of the National Fraud Initiative.

One part of your request asks for:

“all background papers relevant to these disputes, including letters and legal opinions sent by local authorities as well as any background briefing papers provided to the Board in support of the assertion that it is possible to identify using data commission matching techniques that a person is not entitled to section 11 discount of 25%.”

I can confirm that the Commission does not hold any briefings supporting the assertion that data matching can identify that an individual is not entitled to a section 11 discount of 25%. This is because the Commission has never claimed that it can identify entitlement or non-entitlement to section 11 discounts from individual data matches alone. Data matching can identify cases which show potential inconsistencies requiring investigation, and it is only on investigation that an entitlement can be determined. However, the Commission has always been aware that there may be innocent explanations for some of the potential inconsistencies.

You have also requested:

“all committee minutes, internal briefing papers and research reports involved or produced prior to the specific decision taken by the Audit Commission to instruct a lawyer that one could tell by matching the electoral register with council tax data sets whether a person was entitled to a discount under Section 11 Local Government Finance Act of the appropriate amount at the current rate of 25%.”

As explained above, the Commission does not consider that it is possible to identify whether an individual is entitled to a discount under section 11 through individual matches between the electoral register and council tax data sets. We reiterate that it is only following an investigation of matches that entitlement can be determined. It has therefore not instructed counsel on this basis and I can confirm that it does not hold any such information.

You have also requested:

“information on the ways in which the Audit Commission obtains evidence of the 'claim' initially made by the recipient of the 25% discount whenever the council first ascertained that this was applicable.”

The Commission does not obtain evidence of claims made by individuals. It obtains local authority council tax records indicating which individuals receive the discount and the basis on which it has been awarded.

### ***Requested dated 3 November 2009***

The request dated 3 November 2009 is particularly wide as it currently asks for ‘any briefings sent to the Home Office, the Electoral Commission, Audit Wales and Audit Scotland’. The request is not qualified in any way and does not specify a subject matter for the briefings that you are seeking. If you let us know the subject matter about which you are seeking briefings, and the time frame, we may be able to focus our search and locate the information you are seeking more easily than at present. However, this will be subject to your willingness to reduce the scope of your overall requests so that they fall within the appropriate limit.

### ***Request dated 21 October 2009***

Although the Commission considers that this request is related to the requests of 18 October, 3 November and 12 November, most of the request is in the form of requests for explanations

rather than recorded information, which we are happy to answer. To the extent that the information requested falls within the scope of the Freedom of Information Act 2000, it is self contained and easy to locate. I will therefore respond to this request separately.

### ***Next Steps***

You have the opportunity to limit or refine the request so that the cost falls within the £450 limit. In particular I have offered one suggestion that may assist in refining your request of 3 November 2009, and have explained some of the history of the issues you are seeking information about as this may also assist you to refine your requests. If you would like to pursue your requests please write to me with the reduced requirements. However, please note that the Commission has already spent some time complying with a previous related request and may include this time when calculating the estimated time it would take to comply with any reduced requests.

Should you decide to proceed by narrowing the requests down there will be a further assessment of whether the information requested can be provided under the Freedom of Information Act.

If you are not satisfied with the response you have received you have the right to complain. I enclose a copy of the Audit Commission's Access to Information complaints procedure.

Yours sincerely

Shaun Kavanagh  
*Public Enquiries Officer*