



Organised and Financial Crime Unit

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Electoral Registration Officers and the National Fraud Initiative

I am writing about an Order that we are proposing to make under section 32H(3)(a) of the Audit Commission Act 1998.

The Serious Crime Act 2007 amended the 1998 Act to give the Audit Commission legislative powers to undertake data matching exercises for the purpose of assisting in the prevention and detection of fraud.

Under those powers the Audit Commission may undertake data matching for certain bodies on a mandatory basis, namely, local authorities, NHS trusts and others falling within its audit or inspection remit. These bodies must furnish the Commission with such data as it requires for the purpose of its data matching exercises.

As I think you will be aware, the National Fraud Initiative (NFI) team at the Audit Commission has recently engaged in a data matching exercise which has involved the matching of electoral register data to council tax data. The purpose of this match has been to identify anomalies that could be indicative of council tax "single person discount" fraud. This is where an individual claims single person discount, but there have actually been other non-dependant adults living at the same premises, as evident from the electoral register. The pilot exercises undertaken to date indicate that nationally this work could reduce the amount of discounts fraudulently claimed by as much as £200 million over the next three years. This could make such matches amongst the most successful in the NFI.

During the course of this exercise, the question has been raised as to whether or not the Commission will be able to rely on section 32B(1)(b) of the Audit

Commission Act to obtain a copy of the electoral register from electoral registration officers (EROs). The Audit Commission has been advised by counsel that, although the ERO must be an officer of the local authority in order to be eligible for appointment, once appointed that person will be the holder of an independent statutory office, separate from the local authority itself. Thus, any documents will be held in an independent capacity. If this is the case, EROs may not be required to provide the Commission with the electoral register for data matching under section 32B.

We have considered carefully whether this problem can be avoided by means of seeking the full electoral register from the local authority, not from the ERO. There appear to be two difficulties with this. Firstly, although the local authority has the right to obtain the register from the ERO on written request, it will not always have done so, and this may lead to a gap in the provision of data under the legislation. Secondly, it has been argued on behalf of some authorities that data matching under the Audit Commission Act is a function of the Commission, not of local authorities, and as such, regulation 107(4) of the Representation of the People (England and Wales) Regulations 2001 may prevent them disclosing the register to the Commission. There are countervailing arguments but, as it is, it does raise a doubt.

Our view is that there should be no question about the legal basis for proceeding under the new powers and have concluded that the best way of resolving the problem would be to make an Order adding EROs to the list of public bodies in section 32B(2) of the Audit Commission Act 1998. This would put the matter beyond doubt for the future.

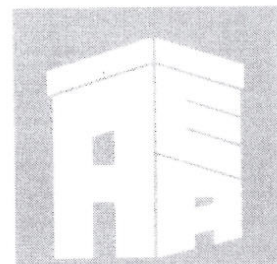
Such an Order would be compatible with regulation 94(3) of the Representation of the People (England and Wales) Regulations 2001, which specifically provides that an ERO may disclose the full electoral register in accordance with an enactment. The proposed Order would also be consistent with the overall scheme of the regulations, which generally authorise disclosure for purposes connected with the control of fraud.

We would be glad of your views on this proposal by 31 July please. Our intention is that any such Order should be in place in advance of the next data matching exercise due to commence in October this year.

I have written in similar terms to The Electoral Commission, and the Association of Local Authority Chief Executives.

RICHARD RHODES

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Dear Mr. Rhodes,

Electoral Registration Officers/NFI

Thank you for your letter of 9th July regarding the above. I placed your letter before the meeting of the AEA Council held last week. The policy of the Association is that the electoral register should only be used for electoral purposes with the exception of national security uses. On that basis, we would be opposed to any further use of the register other than those already contained within the Representation of the People Regulations 2001. Our concern relates to these additional uses which we believe serve as a deterrent effect to people registering and flies in the face of the overall objective of ensuring that the register is as comprehensive and accurate as possible.

However, we recognise that, in the current situation, the register is used for wider purposes than our policy position. Equally, we acknowledge that the overall aim of the NFI is to protect the public purse. On that basis and, in an attempt to provide clarity to the activities of the Audit Commission so far as this matter is concerned, we would ask that, if the Government is minded to move in the direction which you suggest in your letter, it should not follow the course set out in the letter but instead seek to amend the Representation of the People Regulations 2001. These set out the lawful purposes for which the register can be used and a simple amendment to regulation 113 by adding the Audit Commission to the list contained within paragraph (1) of that regulation would achieve your overall objective.

The reason we make this suggestion is that we firmly believe that all the legislation relating to the supply and sale of the electoral register should be contained in one place as a matter of good practice and to assist in the overall understanding and application of the law pertaining to this issue.

I have copied this letter to the Electoral Commission, SOLACE and the Ministry of Justice.

Yours sincerely,

John Turner
Chief Executive

