

Appendix A

Section 40(2): Personal information

The names, initials and individual contact details of Commission employees and third parties amount to personal data.

Section 40(2) of the Freedom of Information Act provides that:

Any information to which a request for information relates is exempt information if it constitutes personal data relating to an individual that is not the requestor, and disclosure would:

- breach any of the data protection principles,
- contravene the right to object to processing, or
- be in conflict with the exemptions applicable to subject access requests

It is considered that disclosure of some of the personal data described above to the world at large, as is the case with a freedom of information response, could breach the first data protection principle.

The first principle provides that personal data shall be processed fairly and therefore any processing should be in line with the individual's reasonable expectations.

Fair Processing

In considering whether it would be fair to disclose information which can identify an individual member of staff or third party we have taken into account the following matters:

Factors that support it being fair to disclose

- The overriding FOIA principle of transparency and accountability is widely understood and accepted within public authorities;
- Those in senior, public facing and strategic roles should have an expectation that information about them, in relation to their work, may be disclosed.

Factors that support it being unfair to disclose

- Members of staff who are not key decision makers have no expectation that their personal details would be disclosed to the world at large.
- The disclosure of the personal data is not necessary to meet the legitimate interest in understanding the action the Commission has taken in response to concerns raised about our guidance.

We have concluded that whilst there is a legitimate interest in understanding the action the Commission has taken in response to concerns raised about our guidance, the disclosure of individual names (with the exception of the most senior Commission staff) and contact details is not necessary to meet this. The disclosure of such personal data in these circumstances would therefore be unfair. Accordingly the names, initials and individual contact details of third parties and Commission employees below Director level have been withheld.