

Nicole Duncan
Team Leader - Government
Information Commissioner's Office
Wycliffe House
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WILMSLOW
CHESHIRE
SK9 5AF

Our Ref F06/0041

Tel : 0207 219 2032

Fax :

Email : [REDACTED]@parliament.uk

19 September 2006

Dear Ms Duncan

Request for Information under the Freedom of Information Act to the House of

Commons from Ms Heather Brooke - your reference: FS50124671

Thank you for your letter of 24 August 2006 about the complaint from Ms Heather Brooke in relation to her request to the House of Commons of 20 March 2006 for: "...a detailed breakdown of MPs' Additional Costs Allowance (ACA)."

The initial refusal to provide the information and the decision on internal review were based, as a matter of principle, on the application of section 40(2) of the Act. For that reason the House did not seek any clarification of the request from Ms Brooke. The House confirms that, as regards the application of section 40 (2), it will rely on the same arguments that have been raised in the cases referred to in your letter. The House also wishes to draw to your attention the arguments presented in the responses made to Ms Brooke in relation to her original FOI request and subsequent internal review (please let me know if you do not have copies of these documents on file).

However, now that the matter is before the Commissioner, the House wishes to bring to his attention the potential difficulties presented in meeting the terms of the request, in case the Commissioner decides that the House was not entitled to rely on section 40(2). In this case, he would of course specify the steps which must be taken by the House in order to comply with his findings. In particular the House relies on the exemption in section 12 in that the cost of providing anything other than the total amounts of ACA claims made by all MPs would exceed the appropriate limit, even if the request was limited to a single year. As the Deputy Director and his team would have seen on their recent visit to the House to inspect the records requested in the cases referred to in your letter, very little information relating to a detailed breakdown of the ACA is available electronically (only the totals claimed by each MP is kept in this format). The other cases referred to in your letter deal with the ACA claimed by a single MP or a small group of named individuals and, if necessary, a response

HOUSE OF COMMONS

DIRECTOR OF FINANCE AND ADMINISTRATION ANDREW WALKER DEPUTY DIRECTOR [REDACTED]

DIRECTORATES: [REDACTED] (OPERATIONS) [REDACTED] (HUMAN RESOURCE MANAGEMENT)

[REDACTED] (FINANCIAL MANAGEMENT) [REDACTED] (INTERNAL REVIEW SERVICES)

DEPARTMENT OF FINANCE AND ADMINISTRATION HOUSE OF COMMONS LONDON SW1A 0AA

can be provided within the appropriate time limits. However, compliance with Ms Brooke's request, for whatever and/or each period requested (and this is unstated), would require the extraction of manual data from around 600 separate files and the compilation of a summary in the form requested.

It is of course for the Commissioner to decide how best to consider this particular complaint but, to the extent described above, since this case is not exclusively concerned with the application of section 40(2) we do not agree that it is appropriate to expedite it without him first confirming the nature of the request for example into what categories the information should be broken down and the extent to which it can be met by the House. On the other hand, he might consider it appropriate that proceedings on this case are stayed pending the final determination of the matter of principle on the application of section 40 in the other cases. In any event, please let me know how the House can assist.

Yours sincerely

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From: [REDACTED] [REDACTED]@parliament.uk]
Sent: 25 October 2006 11:14
To: Nicole Duncan
Subject: Brookes FS50124671 Nicole Duncan

Dear Ms Duncan

A response to your letter of 10 October is attached. The formal signed copy is in the post.
I hope that I have been able to clarify the ACA 1 and 2 situation but I am very happy to assist further as required.

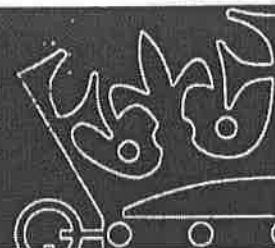
[REDACTED]
<<20061019 Response to ICO Brooke-ACA.pdf>>

[REDACTED]
0207 219 2032

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Ref : FS50124671

F06/0041

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Fax :

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25 October 2006

RECEIVED FOR SCANNING

27 OCT 2006

Dear Ms Duncan

Heather Brooke's Complaint

Thank you for your letter of 10 October in relation to Ms Brooke's complaint. In this letter I provide the information you have asked for and respond to your suggestion that the House should contact Ms Brooke to provide further assistance in order to clarify her request.

You asked for clarification about whether or not the House holds copies of ACA1 and ACA2 forms. I can confirm that the House holds copies of both and that, where relevant, these were included in the data bundles made available to the ICO during its visit.

The ACA1 form is used by Members to provide formal notification of the address of their main and secondary home for the purpose of making claims against the Additional Costs Allowance which, as you are aware, provides reimbursements for the costs of staying away from the main home. The ACA2 form is used by members to make claims against the allowance – the address of the secondary home must also be supplied on this form.

Both forms have been in use since 2003 and were introduced at the same time as the rule changes referred to in the 'findings of fact' section of your recent PDNs which focus on requests for information about ACA claims (see paragraph 23 of PDN FS50070469 dated 2 October). Prior to this date the information currently recorded on ACA1 could be notified, and is held, in various formats. Furthermore, prior to 2003, a less detailed form was used to make a claim against the allowance but this was the equivalent to the current ACA2. The older forms remained in use for some time after the introduction of the ACA2. Where relevant to the complaints currently being considered, the older claims forms and correspondence about the nomination of main and secondary homes, also formed part of the bundle viewed by the ICO.

HOUSE OF COMMONS

DIRECTOR OF FINANCE AND ADMINISTRATION ANDREW WALKER DEPUTY DIRECTOR [REDACTED]

DIRECTORATES: [REDACTED] (OPERATIONS) [REDACTED] (HUMAN RESOURCE MANAGEMENT)

[REDACTED] (FINANCIAL MANAGEMENT) [REDACTED] (INTERNAL REVIEW SERVICES)

DEPARTMENT OF FINANCE AND ADMINISTRATION HOUSE OF COMMONS LONDON SW1A 0AA

The House has carefully considered your suggestion that it would be appropriate at this stage to go back to Ms Brooke in order to clarify the nature of her request. The House agrees and we will write to her in due course.

Please let me know if I can assist further.

Yours sincerely

A large black rectangular redaction box covering the signature and name of the sender.

From: [REDACTED] [REDACTED]@parliament.uk]
Sent: 07 November 2006 14:47
To: Nicole Duncan
Subject: Heather Brooke's ACA Request

Dear Nicole
A copy of my letter to HB is attached
[REDACTED]

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

From: [REDACTED]
Sent: 07 November 2006 14:45
To: 'Heather Brooke'
Subject:

Dear Heather

We spoke on the telephone recently about the Information Commissioner's investigation into your complaint about the House's handling of your FOI request for: "...a detailed breakdown of MPs' additional costs allowance". The purpose of the letter is to describe for you the nature and extent of information held by the House and to invite you to recast your request in order to clarify what information it is you are seeking, and for what period.

A copy has been sent to Nicole Duncan at the IC's office

You will see that the letter goes into some detail - if any of this needs clarification or if you would like to discuss your request, I am happy to do this on the telephone or by email

Kind regards

[REDACTED]

<<20061107 HB ACA.pdf>> _____
[REDACTED]
[REDACTED]

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Ms Heather Brooke

By email

hb@kbro.co.uk

Tel : 0207 219 2032

Fax :

Email : [redacted]@parliament.uk

7 November 2006

Dear Ms Brooke

FOI Request for Details of ACA Claims (ICO Complaint Number FS501246/1)

We spoke on the telephone recently about the Information Commissioner's investigation into your complaint about the House's handling of your FOI request for "a detailed breakdown of MPs' additional costs allowance". The purpose of this letter is to describe for you the nature and extent of information held by the House and to invite you to recast your request in order to clarify what information it is you are seeking, and for what period.

I understand that the Commissioner is near to reaching a conclusion on your case and will issue a decision notice in due course. We have pointed out to the Commissioner that should he decide that the general application of the personal information exemption (FOIA section 40) was incorrectly applied to your request and that as a result some or all of the information should be released to you, the way in which your request is posed means that he would not be able to provide direction on what information should be disclosed. The Commissioner has suggested that the House should seek to clarify your request.

During our conversation you suggested that you would like a detailed breakdown of the claims made by all Members for all of the years for which records are held, while I pointed out the difficulties faced by the House in responding to such an open ended request and the likelihood of exceeding the appropriate limit set for providing a response. Accordingly, I undertook to describe for you what information is held about the ACA so that you might consider your requirement.

You have asked for:

I am writing to request a detailed breakdown of MPs' additional costs allowance. My preferred format to receive this information is electronically, but if that is not possible I can accept hard copies of this of the record. Please send this any information as it becomes available rather than delay the request until all MPs' information can be collated.

HOUSE OF COMMONS

DIRECTOR OF FINANCE AND ADMINISTRATION

Director's Office

Mr Andrew WEAVER, Deputy Director

Mr Thomas BISSICK, Accountant General

Department of Finance and Administration, House of Commons, London SW1A 0AA

As you are aware the ACA is an allowance available to Members to reimburse the costs of staying away from their main home while on parliamentary business. Members are encouraged to submit claim forms on a monthly basis and to provide evidence of expenditure where required by the rules set out in The Green Book (the main guide to allowances)¹. Members making a claim complete the form ACA2, a blank copy of the current version of the form is enclosed with this letter. You can see from this the extent to which the claim is itemised by the Member submitting the form. In addition to the signed claim forms, the House also holds the receipts or invoices that the Member attaches to the form as instructed in relation to hotel costs and certain items as described in the Green book. Prior to midway through the financial year 2003/04 a different form was used requiring less detailed information.

The total claimed by each Member on each form is recorded on the accounting system but no further details are kept in an electronic format. The total amount claimed from the ACA each year is published on the www.parliament.uk website. Currently, these figures are available for each year from 2001/02 to 2005/06.

The records (both paper and electronic) are retained for the current allowance/financial year and the three previous years. This means that, in addition to the current year, detailed records are held for each year going back to 2003/04. For each Member (or former Member) there is a separate manual file for each financial year covering all the different expenses claimed by that Member in that year. Only the current and previous years' records are maintained on file, the rest have been archived. The material held on file relating to the ACA includes (where relevant to the individuals concerned):

- General correspondence between staff of the House and the Member (or their staff) about the allowance
- A signed itemised claim form for each period for which a claim is submitted
- The supporting documentation where required

In 2005/06, an election year, 676 current and former Members submitted claims against the ACA. For each other year for which records are held, around 610 Members made ACA claims.

The following information is held in a separate location:

- Notification of the address of the main home and the location of the residence for which a claim is being made
- Copies of mortgage or rental agreements where applicable

Given the nature of the House's holdings, a response providing a detailed breakdown of claims by individual Members would consist of a copy of the electronic record, which would provide the total amount claimed on each form, plus the provision of documents copied from the manual files.

If the Commissioner decides that the s.40 exemption does not apply to all of the information held, some elements of the material held will in the House's view nonetheless be exempt from disclosure. The early indications are that a possible response along the lines described in the above paragraph would require, for example, the redaction of information such as the identification of third parties, personal and third party addresses and phone numbers in all bills and documentation and business and personal account numbers.

To meet your request in full would therefore involve going into each of the separate files for the many hundreds of Members for each financial year for which the House still has the

¹ <http://www.parliament.uk/documents/ep/leam/leam03sup.pdf>

records, extracting the ACA2 form and any supporting documentation for that claim in that file and then redacting the information described above from those documents. Such an exercise would clearly be very time consuming and would cost the House much more than the appropriate limit set by section 12 of the Act. Even if you limited your request to the claim form itself without the supporting documentation, your request would require examination of several thousand files and be likely to exceed the appropriate limit unless you limited it to a shorter time period and to a small number of Members.

I estimate that if you wanted a detailed breakdown including copies of the supporting documentation you would need to limit your request in a way which required the House to examine no more than 25 - 30 files. A slightly higher number of files could be examined if your request was limited to the ACA2 form alone.

I have tried to describe the House's ACA holdings as briefly and as simply as possible. You are invited to consider your original request so that we can agree its scope and the level of detail required. I am of course very happy to discuss this with you either by correspondence or on the telephone.

Please let me know if I can assist further. I look forward to hearing from you in due course.

A copy of this letter has been sent to Nicole Duncan at the Information Commissioner's Office.

Yours sincerely

A large rectangular area of the document has been completely redacted with black ink, obscuring the signature and any text that might have been present below the signature line.

From: [REDACTED] [REDACTED]@parliament.uk]
Sent: 30 November 2006 13:39
To: Nicole Duncan
Subject: RE: Heather Brooke FOI Request Members' ACA
Dear Nicole

I can confirm that section 12 no longer applies to this request. I will provide a response to the other questions within 10 working days

Regards

[REDACTED]

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

From: Nicole Duncan [mailto:Nicole.Duncan@ico.gsi.gov.uk]
Sent: 30 November 2006 12:01
To: [REDACTED]
Subject: RE: Heather Brooke FOI Request Members' ACA
Importance: High

Dear [REDACTED]

Further to your email below, I understand that Ms Brooke has now clarified the scope of her request in light of further information provided by the House in relation to the nature of the information it holds. At this point, I think that it would be sensible for the House to reassess its view in relation to disclosure of the requested information. In particular, given that the fees issue no longer appears to be applicable to Ms Brooke's revised request it would be helpful if you could confirm whether the House is now happy to proceed on the basis of its section 40(2) arguments rather than section 12.

On the basis of your reply of 19 September 2006, I understand that the House is happy to reply on the section 40(2) arguments it has put forward in other similar cases (a list of which I outlined in my letter of 24 August 2006). I would therefore also appreciate it if you would confirm that this is still the case, and if not, please provide any further clarification in respect of the House's application of section 40(2) in this case.

I would appreciate your reply as soon as possible and no later than 10 working days from receipt of this email. In the meantime, please feel free to contact me directly should you have any questions or concerns.

Regards

Nicole
(0)1625 545774

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

From: [REDACTED] [mailto:[REDACTED]@parliament.uk]
Sent: 30 November 2006 09:14
To: Heather
Cc: Nicole Duncan
Subject: Heather Brooke FOI Request Members' ACA

Dear Heather

Thank you for your reply. To clarify your request for the benefit of the House and the Commissioner, please confirm that your request is as follows:

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"I would like a detailed breakdown of MPs' Additional Costs Allowance (ACA) claims for the allowance year 2005-2006 for the MPs listed below. I would like to receive a copy of all information held by the House of Commons in relation to the claims made by:

Tony Blair
David Cameron
Ming Campbell
Gordon Brown
George Osborne
John Prescott
George Galloway
Margaret Beckett
William Hague
Mark Oaten

I have sent a copy of this email to the Commissioner's office. When responding to confirm that your request is correctly stated (or otherwise) please use the 'Reply to all' button.
Yours sincerely

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Nicole Duncan
Operations Team Leader
information Commissioner's Office
Wycliffe House, Water Lane
WILMSLOW
SK9 5AF

Tel : 0207 219 2032
Fax :
Email : [REDACTED]@parliament.uk

8 December 2006

Dear Ms Duncan

FOI Complaint FS50124671

Thank you for your email of 30 November about the above complaint (Ms Brooke's clarified request).

I can confirm whether the House is now happy to proceed on the basis of its section 40(2) arguments rather than section 12.

I can also confirm that the arrangements agreed in my reply of 19 September 2006, still stand and that the House is happy to reply on the section 40(2) arguments it has put forward in other similar cases (a list of which you outlined in your letter of 24 August 2006).

Please let me know if I can assist further

Yours sincerely

[REDACTED]

HOUSE OF COMMONS

DIRECTOR OF FINANCE AND ADMINISTRATION ANDREW WALKER

[REDACTED] (DEPUTY DIRECTOR) [REDACTED] (HR PROJECTS)

DIRECTORATES: [REDACTED] (OPERATIONS) [REDACTED] - ACTING (HUMAN RESOURCE MANAGEMENT)

[REDACTED] (FINANCIAL MANAGEMENT) [REDACTED] (INTERNAL REVIEW SERVICES)

DEPARTMENT OF FINANCE AND ADMINISTRATION HOUSE OF COMMONS LONDON SW1A 0AA



INVESTOR IN PEOPLE