

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 16th January 2008

Public Authority: House of Commons
Address: London
SW1A 0AA

Summary

The complainant asked for full details, including receipts and invoices, of spending by Tony Blair, John Prescott, Gordon Brown, Michael Howard, Charles Kennedy and Jonathan Sayeed during the year 2003 – 2004. The House of Commons refused the request on the grounds that it the personal data of the MPs concerned and that disclosure would be unfair and present a security risk. The Commissioner decided that although the information is the MP's personal data disclosure would not be unfair and therefore would not breach section 40(2) of the Act.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

2. On 23 March 2005 the complainant requested the following information from the House of Commons:

'I am aware that a summary of information about members' allowance expenditure has been published on the House of Commons website. However, for certain members, I would like to receive the full information which the Commons authorities (such as the Fees Office) possess about details of spending, including copies of documents such as receipts and invoices. Please supply the information for the following members for the period April 2003 – March 2004:

Tony Blair, John Prescott, Gordon Brown, Michael Howard, Charles Kennedy and Jonathan Sayeed.

3. The House refused the complainant's request on 22 April 2005 stating that information relating to expenses and allowances was personal to the Members of Parliament (MPs) concerned and in the case of a detailed breakdown of the Staffing Allowance, to the staff who worked for them.
4. The House advised the complainant that information about MPs' allowances and expenditure was available in the House of Commons' publication scheme. It considered that release of information additional to the scheme was not consistent with the data protection principles and therefore exempt under section 40 of the Act.
5. On 4 May 2005 the complainant asked the House to review its decision. On 20 May 2005 the House upheld its original decision to withhold the information.
6. In its review letter the House informed the complainant that the requested information was personal data under section 1(1) of the Data Protection Act 1998 (the "DPA"). It considered the information to be exempt under section 40(2) of the Act because it was personal data about the MP concerned and its release would breach the requirement of the first data protection principle that personal data be processed fairly and lawfully. It considered that MPs had a legitimate expectation that disclosure of information on allowances would remain within the limits indicated to them at the time the House adopted its publication scheme. The House also argued that disclosure of the data was incompatible with the conditions set out in Schedule 2 of the DPA unless the processing was necessary for the legitimate interests of the third party to whom the data was disclosed.

The Investigation

Scope and chronology of the case

7. The complainant contacted the Commissioner on 8 July 2005 to formally complain about the House's decision.
8. The Commissioner considered the complaint along with a number of similar complaints that he had received. In order to ascertain whether the exemption under section 40 of the Act had been applied appropriately, the Commissioner wrote to the House asking it to clarify its arguments for withholding the information.
9. In relation to the House's argument for withholding expense information the Commissioner asked the House to clarify how it considered disclosure of this expense information related to MPs' personal data and to their homes.

10. In its internal review letter to the complainant the House had referred to a letter dated December 2002 which was circulated to MPs outlining the House's intention to release information about expenses claimed. The Commissioner asked the House to provide him with a copy of this letter. He also asked the House to provide evidence to support its view that MPs did not expect further information on expenses to be disclosed.
11. With regard to the expenses information requested the House argued that a hard and fast distinction between the professional and personal activities of MPs cannot be made. It maintained that this was because travel expenses were met almost entirely to enable MPs and members of their family to travel between their personal or secondary residence and Westminster.
12. The House asserted that identification of a route travelled by an MP would likely establish a pattern of travel and therefore its disclosure would be a security risk.
13. With regard to evidence supporting the view that MPs did not expect further disclosure, the House considered it to be a reasonable expectation on the part of MPs that as data in the House's publication scheme was to be freely available then all other data would not be.
14. On 11 October 2005 the Commissioner asked the House to provide a copy of the requested information in order that he could examine this. In response, the House invited the Commissioner's representatives to the House for a meeting on 20 October 2005. At the same time, the Clerk of the House had also responded (on 19 October 2005) with an invitation to discuss the issues. In the event, the meeting on 20 October was considered to serve the purposes of both invitations. In the House's opinion the meeting was considered sufficient to enable the Commissioner to make his determination. However, whilst the meeting provided a comprehensive briefing on the nature and scope of the information held by the House, the requested information was not available for examination on that occasion.
15. After further consideration, the Commissioner formed the view that he would not in fact be able to reach a decision without having sight of the information requested. He felt it appropriate to serve an Information Notice to facilitate this process.
16. On 6 June 2006 the Commissioner issued an Information Notice requiring the House to make the requested information available for his examination. The information was subsequently examined at the House by the Deputy Commissioner and other ICO representatives on 14 July 2006. The Commissioner undertook a further examination of the information held by the House in respect of this case at its administrative offices on 30 July 2007.
17. In relation to this case the Deputy Commissioner and ICO representatives were informed that the full travel expense claims of Tony Blair, Gordon Brown and John Prescott were not available at the House of Commons. This is because ministerial travel arrangements are managed by the Cabinet Office. The House later informed the Commissioner that there are also other aspects of ministerial

spending such as entertainment which do not form part of the Members' allowance scheme and therefore do not appear in the figures published by the House. The Commissioner understands that the House of Commons had not advised the complainant of these facts when it received the request for information.

Findings of fact

18. Since 2004, MPs' spend against allowances has been published each year on the Parliamentary website. The first release of information included the years 2001 – 2003. The figures comprise annual totals claimed for the following elements:
 - MPs' Additional Costs Allowance and /or London Supplement
 - Incidental Expenses Provision
 - Staff Costs
 - MPs' travel
 - MPs' staff travel
 - Centrally purchased stationery
 - Central IT provision
 - Other central budgets (such as temporary secretarial allowance)
19. The following categories of allowance are covered by the scope of the request in this case: Travel, Staffing, Incidental Expenses Provision (IEP), Additional Costs Allowance (ACA), Central IT provision and Centrally purchased stationery.
20. The provision of **Travel** entitlements for MPs is done on the basis that reasonable travel and associated parking for the MP's vehicle will be paid for provided that the costs are wholly exclusively and necessarily incurred on Parliamentary duties. This includes travel on the recognised direct route between any two of the following three points: the MP's main home, Westminster, the constituency. Travel within the MP's constituency, within the UK and European travel is also included.
21. The provision of the **IEP** is available to MPs to meet the costs incurred by MPs in carrying out their parliamentary duties. It cannot be used to meet personal costs, or costs of party political activities or campaigning. The main areas of expenditure incurred include the costs of the following: accommodation for office or surgeries, work commissioned and other accommodation related services, certain travel and communications. This may include for instance expenditure on the following: rental, surveyors and lawyers fees, payments to utilities (rates, water, gas, and electricity), insurance for the office premises, postage, etc.
22. **Staffing** expenses are available to MPs to cover the provision of staff to assist the MP in the performance of their Parliamentary duties. Allowable expenditure within this allowance includes by way of example the following: staff salaries and employer's National Insurance contributions, overtime payments and reasonable cover for staff absences.
23. The provision of an **ACA** recognises that MPs who live outside Greater London need to maintain a residence within a convenient distance from Westminster if

- they are to carry out their public functions effectively. Alternatively, if they decide to establish their family residence within a convenient distance of Westminster, they need to maintain a secondary residence in the constituency for use on those occasions when they visit their constituency.
24. **Central IT provision** includes the provision of computers and other IT equipment, free of charge, on loan to MPs for Parliamentary use only.
25. **Centrally purchased stationery** includes the provision of stationery items ordered from a central supplier for use in direct connection with a Member's Parliamentary duties. Postage associated with the use of centrally purchased stationery includes pre-paid postage ordered from the central supplier for use in direct connection with a Member's Parliamentary duties.
26. The House also advised the Commissioner that during the relevant period there was a change to the documentation required from MPs submitting claims under the ACA. In particular the claim form changed in 2003 and MPs were required to submit receipts or invoices for amounts over £250 for any single item. Further invoices were required for food amounts over £400 per month. Prior to this the House required less in the way of documentary evidence. Further examples of allowable expenditure can be found via the following link to the Department of Finance and Administration- Green Book:
<http://www.parliament.uk/documents/upload/HofCpsap.pdf>

Analysis

Section 1(1) (Duty to communicate information on request)

27. "Any person making a request for information to a public authority is entitled –
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him."

Section 40 (Personal information)

28. The House relied upon section 40 of the Act to withhold the information Section 40 states the following:
40. - (1) *Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*
- (2) *Any information to which a request for information relates is also exempt information if-*

- (a) *it constitutes personal data which do not fall within subsection (1), and*
- (b) *either the first or the second condition below is satisfied.*

(3) *The first condition is-*

- (a) *in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-*
 - (i) *any of the data protection principles, or*
 - (ii) *section 10 of that Act (right to prevent processing likely to cause damage or distress) ...*

29. The relevant part of the section is section 40(2) which the House argued was engaged by virtue of satisfying section 40(3)(a)(i).

30. The Commissioner is satisfied that the requested information is personal data as defined in the DPA. The DPA defines personal data as:

...data which relate to a living individual who can be identified-

- a) *from those data, or*
- b) *from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller...*

31. The first data protection principle requires that:

"Personal data shall be processed fairly and lawfully, and, in particular, shall not be processed unless-

- (a) *at least one of the conditions in Schedule 2 is met, and*
- (b) *in the case of sensitive personal data, at least one of the conditions in Schedule 2 is also met"*

32. This case involves similar issues to those considered by the Information Tribunal (the "Tribunal") in its rulings on the appeals by the House of Commons against the Commissioner's decisions on travel expenses (Appeal Number: EA/2006/0015 and 0016 and EA/0006/0074/0075/0076) ("the MPs' travel expense cases"). In its decision (appeal number EA/2006/0015 and 0016), the Tribunal ordered the disclosure of a breakdown of the published figures for travel expenses claimed by each MP by reference to the modes of transport employed. In its decision (appeal number EA/0006/0074/0075/0076), the Tribunal ordered two further levels of disclosure, first in relation to the travel expenses of an MP's spouse and, second, a level below mode of travel, that relates to numbers of journeys and their average cost within the UK and Europe.

33. The Commissioner has adopted the same analytical approach as was adopted by the Tribunal in the MPs' travel expense cases, but there are important differences between travel expenses cases and money claimed under the other allowances covered by the scope of the request in this case. There is also a difference

between the Tribunal's travel expenses decisions and the current case being considered by the Commissioner in respect of the level of detail requested. In this case, the complainant requested details of spending including copies of documents such as receipts and invoices in relation to a number of named MPs.

34. The Commissioner's view is that, in determining whether processing would be fair, particular regard should be had to whether the personal data requested related to individuals acting in an official as opposed to a private capacity.
35. As noted above, in considering this case the Commissioner has taken account of the analysis made by the Tribunal in its ruling in the MPs' travel expense cases. In the Tribunal's decision (appeal number EA/2006/0015 and 0016) a breakdown of the published figures for travel expenses claimed by each MP was ordered to be made by reference to the modes of transport employed. At paragraph 77 of that decision the Tribunal accepted the Commissioner's contention that it is correct to have regard for whether personal data relates to the private or public life of the data subject to the extent that the public function of an MP is the reason the data is being processed. This contention was also accepted by the Tribunal at paragraph 49 of its most recent decision pertaining to the disclosure of travel expense information (appeal number EA/0006/0074/0075/0076). In this case the Tribunal reiterated its findings in paragraph 79 of appeal number EA/2006/0015 and 0016 pertaining to the general fairness of processing personal data under the first data protection principle, namely that:

- (1) the interests of MPs as data subjects are not necessarily the first and paramount consideration where the personal data being processed relate to their public lives; and
- (2) it is possible to draw a distinction between personal data related to an MP's public and private life.

36. The Commissioner has considered the legitimate interests of the individual data subjects, namely Mr Prescott, Mr Brown, Mr Blair, Mr Howard, Mr Kennedy and Mr Sayeed, rather than all MPs more generally. This is in line with the Tribunal's decision at paragraph 82 (appeal number EA/0006/0074/0075/0076). Further, the Commissioner accepts the Tribunal's view at paragraph 90 of (appeal) that the application of Schedule 2, condition 6 of the 1998 Act:

involves a balance between competing interests broadly comparable, but not identical, to the balance that applies under the public interest test for qualified exemptions under FOIA. Paragraph 6 requires a consideration of the balance between: (i) the legitimate interests of those to whom the data would be disclosed which in this context is a member of the public (section 40(3)(a)); and (ii) prejudice to the rights, freedoms and legitimate interests of the data subjects. However because the processing must be 'necessary' for the legitimate interests of a member of the public to apply we find that only where (i) outweighs (ii) should the personal data be disclosed.

37. In considering the prejudice to the rights, freedoms and legitimate interests of the MPs concerned the Commissioner has taken account of the legitimate interests set out by the Tribunal in the MP's travel expense cases at paragraphs 92 of

appeal number EA/2006/0015 and 0016 and reiterated at paragraph 63 of appeal number EA/0006/0074/0075/0076 (see Annex A for a complete list of these interests).

38. Further in considering the legitimate interests of members of the public concerned in access to the requested information the Commissioner has taken account of the legitimate interests set out by the Tribunal in the MP's travel expense cases at paragraphs 91 of appeal number EA/2006/0015 and 0016 and reiterated at paragraph 52 of appeal number EA/0006/0074/0075/0076 (see Annex B for a complete list of these interests).
39. In the present case the House argued that disclosure of information in addition to that which is already included in its publication scheme would be unfair to individual MPs. In the letter of December 2002, MPs had been advised of the information which would be disclosed in the House's publication scheme. The House asserted that since no further notice of additional disclosure had been given, MPs could reasonably expect that nothing further would be disclosed and that disclosure of the requested information would therefore be unfair.
40. The Commissioner recognises that disclosure of the information goes beyond that which MPs were notified of in the letter of December 2002. However, the Commissioner also notes that the letter of December 2002 does not, and could not, give any assurances to MPs that additional information will not be provided should the Act require its disclosure. In the Commissioner's view a publication scheme is both a public commitment to make certain information available and a guide to how that information can be obtained. However, a publication scheme does not preclude further disclosure of information beyond that which is included in the scheme.
41. In considering whether the personal data requested relates to individuals acting in an official as opposed to a private capacity the Commissioner considered the "Green Book", published by the Department of Finance and Administration of the House of Commons, which outlines the rules governing Parliamentary salaries, allowances and pensions. The Green Book clearly sets out that any expenditure claimed by an MP from the allowances must be "wholly, exclusively and necessarily incurred for the purpose of performing [an MP's] Parliamentary duties."
42. If individual MPs had not been elected to carry out their role as public representatives they would not be entitled to claim the related expenses. Expenses are claimed directly by the MP (and not his or her family) and are claimed in relation to his or her duties – due to, for instance, the requirement to live within the vicinity of their Westminster and constituency work and to travel between the two locations and within the constituency. It is only because such costs are considered to be expenses arising from the holding of public office that they are subject to reimbursement from the public purse. The Commissioner's view is that that the requested information relates to individuals acting in an official as opposed to a private capacity. Purely private expenses, for example those for recreational purposes, are not subject to reimbursement.

43. The Commissioner considers that the information sought in this case is personal data about the money claimed by MPs as reimbursement from the public purse for the cost of carrying out their Parliamentary business. However, in considering the particular information requested in this case the Commissioner also notes that some of the information held by the House in respect of this case is the personal data of other third parties namely the MP's spouse and family and the MP's staff. Issues regarding such personal data arise in this case under the travel, IEP and staffing allowances where for instance MP's staff or their spouse has undertaken travel.
44. The Commissioner fully accepts that all MPs are entitled to a degree of privacy. They are entitled to expect that personal information about their private lives will be afforded appropriate protection from disclosure by the proper application of the data protection principles.
45. The Commissioner also recognises - and takes fully into account - that the role and responsibilities of most MPs in relation to their duties at Westminster and in their constituencies require them, their family and staff to travel, and may require them to maintain two homes. Their private lives and public functions as elected members are at times inextricably linked. He further recognises that as a result, the private life of any spouse, partner, child or other person living with an MP can also become entwined with the public functions of an MP. For instance, the Commissioner recognises that because of the nature of the ACA some of the requested information relates to the MP's private life; for instance the MP may claim for reimbursement of the cost of food, fuel, furnishings etc.
46. The House recognised that information concerning the use of public money by elected office-holders is a matter of legitimate public interest. However, the House asserted that disclosure in this case would be prejudicial to the legitimate interests of the data subjects (the MPs). This is because the requested disclosure would go beyond that notified to MPs in December 2002 (and which now forms part of the House's publication scheme); this was a level of disclosure which at the time was thought to represent the appropriate balance between the interests of the public and the interests of MPs.
47. In the context of condition 6 of Schedule 2 of the DPA, the House had argued in relation to another case that MPs should not be required to produce evidence of specific prejudice arising from disclosure in order to provide a counterbalance to the legitimate interest of the requestor (ICO reference FS50067986). The House maintained that it would be unfair to require MPs to present evidence of specific prejudice whilst the requestor needed only to establish that his legitimate interest in the spending of public funds is a general one.
48. The House also asserted that as it was not entitled under the Act to ask why the complainant was seeking the information, it believed the complainant's legitimate interests in disclosure and possible prejudice to MPs could not be properly balanced unless it knew why the complainant wanted the information and how he intended to use it. The House did not accept that the balance falls in favour of the complainant unless specific prejudice to MPs could be identified.

49. The Act however is purpose-blind. Any assessment of whether disclosure of information would cause prejudice must be based entirely on consideration of the nature of the information and whether its disclosure would cause unwarranted prejudice to the legitimate interests of MPs (see the test outlined above at paragraph 40).
50. Whilst acknowledging the complainant's legitimate interest in access to information concerning the claims of elected members for public money, the House has not provided specific information of prejudice to the legitimate interests of MPs, either generally or specifically, other than what is outlined above. The Commissioner has however further considered condition 6 of Schedule 2 by reference to the particular information requested in this case. His conclusions are set out below.

Travel

51. In this case the information requested pertains to travel undertaken by the MPs concerned and in some instances their spouse, family member or staff. The travel expense information requested in this case is the most detailed travel information considered by the Commissioner to date. In particular some details of the dates, times and origin and destination of particular journeys is held as well as details of particular flights taken and vehicle make/model and registration details for an MP and/or their spouse. Such information is held alongside information about the cost and or mileage associated with particular journeys. This is a further level of detail below that already considered by the Commissioner and Tribunal in the MPs travel expense cases in so far as these cases considered the total cost of travel broken down by mode of travel and the total numbers of journeys and their average cost for both an MP and their spouse.
52. In this case the House maintained that disclosure of information which identifies routes travelled by MPs would likely establish patterns of travel and thereby entail security risks.
53. The Commissioner does not expect information to be disclosed if it entails risk to safety or security. Whilst the Commissioner is not convinced that the information held in this case would allow patterns of travel to be deduced, to the extent that the exact details of journeys taken by the MPs concerned is held by the House, the Commissioner would tend to agree that this information would be more likely to give rise to a credible increase in security risks. However, in this case the Commissioner is of the view that the legitimate interests of the requestor and members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of the MPs, their spouse and family and staff in respect of the disclosure of the individual amounts claimed for the year requested broken down by mode of travel under the following headings: MPs travel (further broken down into European and travel on Parliamentary business within the UK) , Spouse and Family travel and Staff travel. This should include summary details of the number and cost of individual journeys undertaken.

54. In the Commissioner's view this approach is in line with the Tribunal's conclusions at paragraph 81(1) of its decision in appeal number EA/0006/0074/0075/0076 in which it states:

We are inclined to agree that disclosure of travel details which could reveal the times, origins and destinations of journeys, and the modes of transport likely to be used at particular times and circumstances could be of potential use to malevolent individuals, especially where such information was not otherwise available to them...we find that information that relates to the total number or average costs of journeys can be distinguished from information giving details about particular journeys. While the latter could give rise to a credible increase in security risks, the former is much less likely to do so and we find that the information in the generalised form ordered to be disclosed by the Commissioner is unlikely to worsen security risks or concerns;

IEP

55. To the extent that some limited information held in this case includes the details of other third parties, namely the MP's staff, it would be unfair to disclose the names of individuals alongside the sums paid. However, the Commissioner is of the view that the legitimate interests of the requestors and members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of the MPs concerned in respect of the remaining information and as such that the individual amounts claimed under this allowance for the year requested with a description of what the expense pertains to (e.g. £20 for the cost of office supplies, or £100 for postage) should be disclosed.

ACA

56. In respect of the ACA the House argued that there is no useful distinction between professional expenses arising out of public office and personal expenses. Whilst acknowledging that the ACA expenses are incurred by an MP in his or her professional capacity the House pointed out that the expenses relate to the MP's private and family life in so far as they pertain to the MP's home and may benefit the MP's family.
57. The Commissioner is not persuaded by the House's argument. In his view the link with holding public office is clear. If individual MPs had not been elected to carry out their role as public representatives they would not be entitled to claim the related expenses. Expenses are claimed directly by the MP (and not his family) and are claimed in relation to his employment – either for travel to and from work or due to the requirement to live within the vicinity of work. It is only because such costs are considered to be expenses arising from the holding of public office that they are reimbursable from the public purse.
58. However, as explained above the Commissioner recognises that because of the nature of the ACA some of the requested information relates to the MP's private life; for instance the MP may claim for reimbursement of the cost of food, fuel, furnishings etc. and that because of the nature of the allowance the private life of

any spouse, partner, child or other person living with an MP can also become entwined with the public functions of an MP.

59. The Commissioner is of the view that the legitimate interests of the requestors and members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of the MPs concerned and that the total amount claimed by the MP concerned for the year outlined in the complainant's request by category of expense should be disclosed. The information should be provided by reference to the categories of expense set out in paragraph 3.11.1 of the Department of Finance and Administration - Green Book 2005 (3.13.1 of the Department of Finance and Administration – Green Book 2006). The Commissioner's decision in respect of this case accords with four previous decisions issued by the Commissioner in relation to the ACA (FS50071451, FS50070469, FS50079619 and FS50124671).

Staffing

60. In this case the House holds information in respect of the exact sums paid to named staff members during the year covered by the scope of the request. In determining whether it would be fair to disclose this information the Commissioner has considered the seniority of the staff concerned, the extent to which their role is public facing and the extent to which such staff can be said to have a legitimate expectation that such information will be kept confidential. Most MPs' staff are not particularly senior and although some staff do perform public facing roles the Commissioner has concluded that it would be unfair to disclose the specific sums paid to named individuals during the year covered by the request. The Commissioner is aware that some information regarding the names, pay bands and corresponding job titles of MPs' staff are already a matter of public record. In the Commissioner's view staff would have a legitimate expectation that the exact sums paid to them in a particular year would not be disclosed to the public. In this case the legitimate public interest in access to the exact sums paid to named staff members during a particular year does not outweigh any prejudice to the rights and freedoms of the staff concerned.
61. However, in the Commissioner's view the disclosure of the total staffing cost broken down by month for the year requested and the number of staff this pertains to each month anonymised to exclude any reference to particular members of staff would not be unfair. This information pertains to the amount of money claimed by the MP from the public purse in respect of his or her staffing allowance and in the Commissioner's view there is a legitimate public interest in access to this high level figure which outweighs any prejudice to the rights and freedoms of the MP or staff concerned.

Central IT provision

62. Central IT provision includes the provision of computers and other IT equipment, free of charge, to MPs for Parliamentary use only. The House currently publishes the annual cost of providing this equipment to each MP. The Commissioner

understands that in publishing this annual cost the House carries out a valuation of the equipment during each of the four years it is on loan to the MP concerned. The Commissioner is of the view that the legitimate interests of the requestors and members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of the MPs concerned in respect of this information. As such the Commissioner considers that a breakdown of the total cost of the provision of this equipment for the year requested including a description of what this cost pertains to should be provided.

Centrally purchased stationery

63. Centrally purchased stationery includes the provision of stationery items ordered from a central supplier for use in direct connection with a Member's Parliamentary duties. Postage associated with the use of centrally purchased stationery includes pre-paid postage ordered from the central supplier for use in direct connection with a Member's parliamentary duties. In respect of each MP the House currently publishes the annual cost for both centrally purchased stationery and separately reports the cost of postage. The Commissioner is of the view that the legitimate interests of the requestors and members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of the MPs concerned in respect of this information. As such the Commissioner considers that a breakdown of the cost of stationery during the year requested including a description of what this cost pertains to and a separate breakdown of the cost of postage should be provided.

The Decision

64. The Commissioner's decision is that the House has not dealt with the complainant's request in accordance with the following requirements of Part I of the Act:

Section 1(1) – in that it failed to communicate to the complainant such of the information specified in his request as did not fall within any of the absolute exemptions from the right of access nor within any of the qualified exemptions under which the consideration of the public interest in accordance with section 2 would authorise the House to refuse access.

Steps Required

65. The Commissioner requires that the House of Commons shall provide the complainant with the following information in respect of each of the named MPs:

Travel- The disclosure of the individual amounts claimed for the year requested broken down by mode of travel under the following three main headings: MPs travel (further broken down into European and travel on Parliamentary business

within the UK), Spouse and Family travel and Staff travel. This should include summary details of the number and cost of individual journeys undertaken.

IEP- The disclosure of the individual amounts claimed with a description of what the expense pertains to (e.g. £20 for the cost of office supplies, or £100 for postage).

Staffing- The aggregate sum paid out for each month during the year requested including the number of staff members this pertains to but excluding any reference to named staff members.

Central IT provision- A breakdown of the total cost of the provision of this equipment for the year requested including a description of what this cost pertains to (e.g. 4 PCs or 2 printers).

Centrally purchased stationery- A breakdown of both the cost of stationary during the year requested including a description of what this cost pertains to (e.g. £20. for envelops) and a separate breakdown of the corresponding cost of postage.

ACA- The total amount claimed by the named MPs under the Additional Costs Allowance for the year outlined in the complainant's request by category of expense. The information shall be provided by reference to the categories of expense set out in paragraph 3.11.1 of the Department of Finance and Administration - Green Book 2005 (3.13.1 of the Department of Finance and Administration – Green Book 2006).

66. The public authority must take the steps required by this notice within 35 calendar days from the date of this notice.

Failure to comply

67. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

68. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

69. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
70. Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 16th day of January 2008

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex A- The Legitimate interests of the MP concerned.

- 1) publishing of detailed expense information could lead to questions in relation to a MP's private life;
- 2) the complexity of their lives, including travel arrangements is influenced by family/private considerations;
- 3) such requests are a diversion from other parliamentary business;
- 4) the House has already determined that the publication Scheme meets the House's obligations under FOIA;
- 5) MPs' consent for disclosure has only been sought for aggregate figures for travel expense [and other categories of expense] and not for more detailed disclosure;
- 6) The information sought is personal data relating to personal choice and therefore should not be disclosed;
- 7) Further disclosure of a breakdown of expenses would give rise to opportunities for further invasion of the privacy of MPs from the media;
- 8) MPs are already subjected to close scrutiny, a consequence of which is that their role has become increasingly pressurised due to increased attention from the media which detracts from them effectively carrying out their role;
- 9) The existing rigorous scrutiny of expenses has already resulted in a reduction in expenditure, and this is reflected in the year on year comparative financial reports produced for the House;
- 10) A breakdown of travel by mode of transport can be provided to monitor use of environmentally friendly transport and therefore, it is unnecessary to provide the information for individual MPs.

Annex B- The legitimate interests of members of the public in access to the requested information.

- 1) understanding the way in which MPs' travel expenses [and other categories of expense] are used;
- 2) ensuring that MPs use of public monies is properly accountable for in the way in which it is spent by providing public scrutiny of the use of public funds by elected office holders- greater transparency would ensure the proper use of public funds and help guard against their misuse;
- 3) encouraging MPs to take better value for money choices in the mode of transport used and hopefully producing savings to the public purse- the public have a right to know whether value for money is being obtained in MPs' travel arrangements [and other choices made in respect of the other categories of allowance];
- 4) being more aware of the environmental or 'green' choices made by MPs as demonstrated by their mode of travel;
- 5) being aware of MPs' choices of mode of travel in the light of their involvement in debating and legislating on transport and environmental matters.