

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 8 January 2008

**Public Authority:** Information Commissioner's Office  
**Address:** Wycliffe house  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Note: The complaint in this case was made against the Information Commissioner. Since the Commissioner is himself a public authority for the purposes of the Freedom of Information Act 2000 (the "Act"), he is unusually under a duty to make formal determination of a complaint made against himself. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice.

### Summary

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The complainant made a request to the Information Commissioner's Office (ICO) for the postcodes of all employees at the ICO. The ICO disclosed to the complainant the first half of the postcode but refused to disclose the second half under section 40(2) of the Act, 'personal data'. The Commissioner has investigated and found that the information withheld is personal data and that disclosure would breach the first data protection and was therefore exempt under section 40(2) of the Act.

### The Commissioner's Role

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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

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2. The complainant has advised that on 16 February 2007 he made the following request for information to the Information Commissioner's Office (ICO):

*"To further my research, I am requesting the home postcodes of employees of various public authorities. I am only seeking postcode data and no other part of the name or address of your employees. They need not be provided in any particular order. I would like the information by e mail (if possible on an excel worksheet).*

3. On 16 March 2007 the ICO responded to the complainant confirming that it held the requested information but that it was unable to provide the full postcodes as this information is exempt from disclosure under section 40(2) of the Act. The ICO did provide the complainant with the partial postcode list of staff, specifically the 'out bound' postcode which is the first half of the postcode such as SK9. The ICO explained that it could not provide the full information because the postcode information of its employees is personal data about them and disclosure of the information would contravene the first data protection principle as it would be unlawful and unfair. The ICO further stated that disclosure would be unfair as it is not within the reasonable expectations of its staff.
4. On 26 March 2007 the complainant requested an internal review of the decision to disclose only the first half of the postcode. The complainant argued that the postcode does not reveal the identity of an individual person or property and that the Post Office had suggested that a postcode is used to locate an average of 15 properties. The complainant stated he does not believe that the postcode is personal data. In support of this the complainant highlighted to the ICO the decision FS50082890 in which the ICO ordered a council to disclose the full postcodes of council properties.
5. The ICO carried out an internal review and communicated its findings to the complainant on 25 April 2007. The ICO upheld the original finding that the full postcode is personal data. The ICO acknowledged that the postcodes relate to a number of properties but found that it was a small number and in some cases only one property, and that it would be relatively straightforward to identify the individuals from the data. The ICO explained that the decision in FS50082890 to disclose the full postcodes was made as it found that to release the information would not be unfair in that instance and that the data protection principles would not be breached as fairness is considered on a case by case basis. The ICO explained that in the above case the ICO had found that it would be unfair if individuals were publicly identified as members of a vulnerable group such as asylum seekers but not in the individuals being identified as council tenants. The ICO found that in this case it would be unfair to release the requested information as it not reasonable for members of staff to have this data released so they could be part of research to which they had not consented.

## The Investigation

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### Scope of the case

6. On 1 May 2007 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
- Postcodes are not personal data and the conclusion that they identify an individual is wrong
  - If the postcodes are found to be personal data then disclosure is not unfair.

### Chronology

7. Having considered all the relevant documents attached to the complaint and the original case file, the Commissioner took internal advice from members of staff at the Information Commissioner's Office who were not involved in the original Freedom of Information (FOI) request and internal review.

### Findings of fact

8. The ICO have disclosed to the complainant the first half of the postcodes for ICO employees and the number of staff residing at each one. The first half of the postcode is known as the 'out bound' postcode whilst the second half is known as the 'in bound' postcode.
9. A postcode is a group of numbers and letters that give precise and essential information about an address. It's made up of several parts, each of which provides specific information. For example: SO31 4NG breaks down as follows:

**Out Bound Code: SO31**

SO = the postcode area. One or two letters which identifies the main office the mail initially goes to.

31 = the postcode District. One or two characters, numeric except, occasionally, in central London. This helps to sort the item at the main office.

**In Bound Code: 4NG**

4 = the Sector. A number defining a neighbourhood within a district.

NG = the Unit code. Two letters that identify a group of addresses, and in some cases only one address.

## Analysis

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### Exemption: Section 40(2) 'Personal Data'

10. Section 40(2) provides an exemption for information which is the personal data of any third party, where disclosure would contravene any of the data protection principles contained in the DPA.

11. In order to rely on the exemption provided by section 40, the information being requested must therefore constitute personal data as defined by the DPA. The DPA defines personal information 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,*

*and includes any expression of opinion about the individual and any indication of the intention of the data controller or any other person in respect of the individual.'*

12. The Commissioner considers that the full postcode is personal information as it is information from which an individual can be identified. The Commissioner understands from the guidance produced by the post office states that the inbound postcode, which has been withheld, produces on average 15 addresses. In reaching his decision the Commissioner has considered how this information, along with information already in the public domain could locate the individual addresses of staff working in the ICO. The ICO has published the names of staff under a previous FOI request and the Commissioner is satisfied that this, along with the full postcode could, with little effort, lead to the identification of individual staff members' addresses. The Commissioner also notes that some postcodes relate to single addresses.

13. This position was upheld in the recent Information Tribunal decision *EA2007/009 Roy Benford vs. the Information Commissioner and the Department for Environment, Food and Rural Affairs* which found that

*"...part of the address can be given without that being sufficient to identify any living individuals. So for example, in an address made up of [farm name]. [road, [place], [county], [out bound postcode (i.e. the first half of the postcode)], and [inbound postcode (i.e. the second half of the postcode)], the farm name, the road and the inbound postcode may constitute 'personal data' but the county and out bound postcode would clearly not"*

14. The ICO have argued that disclosure of the full postcode would breach the first data protection principle.

15. The first Data Protection principle has two components:
1. Personal data shall be processed fairly and lawfully and
  2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met
16. In considering whether disclosure of the full postcode would be unfair and therefore contravene the requirements of the first data protection principle, the Commissioner has taken the following factors into account:
- The individual staff members' reasonable expectations of what would happen to their personal data;
  - Whether the individuals have refused to consent to the disclosure of the requested information;
  - Whether disclosure would cause any unnecessary or unjustified damage;
17. The ICO's position is that its members of staff would have had a reasonable expectation that their postcodes would not be disclosed publicly. ICO staff provide their postcodes as part of their contract of employment for the purposes of payroll and other human resource processes. The Commissioner is satisfied that in providing their postcode to the ICO staff would have had a reasonable expectation that their postcode would not be disclosed to members of the public. However, simply because an individual has an expectation that information held about them will not be disclosed, this does not necessarily mean that this expectation is a reasonable one. The Commissioner's guidance on section 40 suggests that when considering what information third parties should expect to have disclosed about them, a distinction should be drawn as to whether the information relates to the third party's public or private lives. Although the guidance acknowledges that there are no hard and fast rules it states that:
- 'Information which is about the home or family life of an individual, his or her personal finances, or consists of personal references, is likely to deserve protection. By contrast, information which is about someone acting in an official or work capacity should normally be provided on request unless there is some risk to the individual concerned.'*
18. The Commissioner recognises that public sector employees should expect some information about their roles and the decisions they take to be disclosed under the Act. This is supported by the ICO disclosure of the staff names and job titles. However, in this case the information requested relates to the home life of the employees as it is for their home postcode and therefore does not relate to their working life. On this basis the Commissioner considers that whilst employees at the ICO may have an expectation that some details about them in their work capacity may be disclosed they would not expect that information which relates to their home life would be made public.
19. The Commissioner has established that the individuals have not consented to the disclosure of their full postcodes.

20. The Commissioner has also considered if disclosure of the information would cause the third parties any unwarranted or unjustified damage or distress. The Commissioner has already established that disclosure of the full postcode, along with information already in the public domain, would enable the individual addresses of ICO staff to be identified.
21. In the decision notice FS50082890 the Commissioner found in determining if the addresses of council properties should be disclosed that:

*“In considering whether personal data would be processed fairly if it were disclosed to the complainant, the Commissioner has considered whether there would be any unfairness to the subjects of those data. Although he accepts that there would be unfairness to individuals if there were publicly identified as members of a vulnerable group, for instance asylum seekers, benefit recipients or women who have left violent partners, he does not consider that there would be any general unfairness to individuals in being identified as council tenants. In taking this view, he is mindful of the low inherent sensitivity of the data and of the fact that in practice the fact that a particular property is or is not owned by the Council will be generally known to neighbours or because it is part of a known council housing estate.”*
22. Disclosing the full postcodes would reveal the addresses of staff working at the ICO. Whilst this could be viewed by some as of ‘low inherent sensitivity’ similar to that as being known to be council tenant, it is important to consider how this data could be used by the public. Whilst the complainant has indicated that he requires the information for research purposes, disclosure under the Act represents disclosure to the public at large. Revealing to the public the addresses of staff working at the ICO could lead them to being targeted by specific interested groups or specific marketing campaigns which could well cause the individuals some distress.
23. The Commissioner is therefore satisfied that disclosure of the full postcodes of the staff working for the ICO would breach the first data protection principle and is therefore exempt under section 40(2) of the Act.

## The Decision

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24. The Commissioner’s decision is that the public authority dealt with the request for information in accordance with the Act.

## Steps Required

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25. The Commissioner requires no steps to be taken.

## Right of Appeal

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26. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

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 8<sup>th</sup> day of January 2008**

**Signed .....**

**Richard Thomas  
Information Commissioner**

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