

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 30 July 2013

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

#### Decision (including any steps ordered)

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1. The complainant requested information from the House of Commons (the 'HOC') about an agreement barring MPs from involvement with trade unions. The HOC denied holding the requested information.
2. The Information Commissioner's decision is that the HOC, on the balance of probabilities, does not hold the requested information. He does not require the HOC to take any steps.

#### Request and response

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3. On 21 January 2013, the complainant wrote to the HOC and requested information in the following terms:

*"For your information, I have a historic dispute with the Union of which I was a member for nearly twenty years. When the dispute started I discussed the issues with another Union official who told me to take the matter to my MP who told me there was something in place in Parliament which barred him from involvement with Trade Unions. When I approached my newly elected MP for assistance with another aspect of my complaint she informed me she had sought advice from another MP who told her that he could not assist me, citing the same agreement.*

*All my requests for information about this agreement or whatever it is called have failed and once again the Information Commissioner has told me to write to Parliament. I have enclosed a copy of the letter dated 8<sup>th</sup> January 2013. For the third time; will you disclose to me the*

*details of this agreement and who was responsible for putting it in place."*

4. The HOC responded on 29 January 2013. It denied holding the requested information, stating:  
  
*"Having carried out relevant enquiries concerning this matter I have established that there is no such parliamentary rule, therefore this information is not held. It is for Members to decide how to respond to requests for assistance from their constituents."*
5. The complainant requested an internal review on 1 February 2013. The HOC sent the outcome of its internal review on 4 February 2013. It upheld its original position.
6. There followed a further exchange of correspondence during which the HOC maintained its position that the requested information was not held.

### **Scope of the case**

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7. The complainant contacted the Information Commissioner (the 'Commissioner') on 13 March 2013 to complain about the way her request for information had been handled.
8. The Commissioner has considered whether, on the balance of probabilities, the requested information is held.

### **Reasons for decision**

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#### **Section 1**

9. Section 1 of FOIA states that:  
  
*"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."*
10. The task for the Commissioner here is to determine whether, on the balance of probabilities, the MOD holds any further information relevant to the request which it has not disclosed to the complainant. Applying

the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.

11. The Commissioner asked the HOC to explain further why it does not hold the agreement between Members and Trade Unions which would prevent Members becoming involved in any dispute. In reply the HOC reconfirmed that no such agreement exists, stating that there is no formal restriction on what Members may or may not investigate. It commented:

*"Indeed, any such restriction would be counter to their ability to represent their constituents as they are elected to do. It is a matter for each individual Member to decide the extent to which he or she chooses to represent their constituents and the manner in which they will do so."*

12. The HOC also added that there are currently 646 Members, all of whom act independently. There is also a wide range of unions, representing employees across most trades and professions, all of whom are independent bodies and the HOC commented that it would be *"impossible to imagine in practice that one agreement would cover all Members and all unions – the political differences between Members and the practical difficulties would be too great for that to happen"*.
13. Before responding to the request, the HOC checked this position with the Office of the Chief Executive, the Department of Human Resources and Change, the Personnel Advisory Service (who provide advice to Members) and the office of the Parliamentary Commissioner for Standards. It said that these were the places where staff would be aware of the existence or otherwise of such an agreement and that they had all confirmed no information was held.
14. The HOC said it considers the complainant's request relates to her belief that her MP gave her incorrect information when allegedly informing her that there was an agreement which prevented him from acting on her behalf. The Commissioner agrees with the HOC that this is not an FOIA issue.
15. On receipt of further correspondence from the complainant after the internal review, the HOC said it double checked that no information was held and provided her with an explanation of why that was the case. It also provided advice and assistance in accordance with section 16 of FOIA by referring the complainant to the Citizens Advice Bureau and the Parliamentary Commissioner for Standards.

*Conclusion*

16. On the basis of the explanation provided by the HOC, the Commissioner has concluded that, on the balance of probabilities, the HOC does not hold the requested information.

## Right of appeal

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17. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**