

FOIA s.40(2) – Absolute exemption - personal data

DPA Sch 2 – Data Protection Principles

The Corporate Officer of the House of Commons v IC

EA/2006/0074/0075/0076

9th August 2007

Cases:

The Corporate Officer of the House of Commons v IC & Norman Baker MP [2007] UKIT
EA_0006_0015

Facts

The HOC disclosed the amounts paid to MPs for various allowances including an aggregate figure for travel expenses. Since the first HOC case, the HOC now disclosed MPs travel expenses broken down by mode of travel. The requests in these appeals were for further levels of disclosure but only relating to one particular MP.

Findings

With regard to spouses' travel expenses the Tribunal were of the view that they were at a level comparable with the overall disclosure of an MP's travel expenses disclosed before the first HOC case. They are the part of an MP's overall travel expenses at this level, without breakdown by mode of travel or further, which has not yet been disclosed. Having considered all these interests the Tribunal found that the legitimate interests of members of the public outweighed the prejudice to the rights, freedoms and legitimate interests of MPs. The Tribunal considered its decision would only result in a very limited invasion of an MP's privacy considered in the context of their public role and the spending of public money.

In relation to European travel of the MP concerned it was only possible to identify two flights and the Tribunal found in favour of disclosure of this information applying the test above.

The other parts of the requests are at a further level of detail and are, in effect, a drill down to a more detailed level of information on travel claims from the first HOC case. The Tribunal again found in favour of disclosure applying the relevant test. However the Tribunal did express concern if disclosures were requested in relation to individual journeys, which was not the case here.

The Tribunal also found that individual MPs are not public authorities under FOIA.

Fair Processing

The Tribunal accepted the way the paragraph 6 fair processing test was applied in the first HOC case and that it 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.

The main legitimate interests of the requesters or members of the public raised in this case were the similar to the first HOC case. In addition the Tribunal considered two other interests, namely:

- spouses travel information is part of the general interest in understanding the way in which MPs' travel expenses are used;
- there was a specific interest in looking at a detailed breakdown of an MP whose travel expenses in total are high as compared with the total travel expenses of MPs generally.

The main prejudices to the rights, freedoms and legitimate interests of the MP as a data subject which were raised in this case were similar to the first HOC case. There was one other interest that the Tribunal considered in this case, namely the particular MP's safety, security and peace of mind. However, they found that the legitimate interests of the requesters and members of the public outweighed the prejudice to the rights, freedoms and legitimate interests of the MP.

Conclusion

The Tribunal dismissed the appeal and upheld the IC's Decision Notices.