

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 23 April 2007

Public Authority: Privy Council Office
Address: 2 Carlton Gardens
London
SW1Y 5AA
AL7 3XP

Summary

The public authority (PCO) withheld certain information requested by the complainant relating to the University Visitor, interests declared by Baroness Amos under the Ministerial Code of conduct or otherwise and all details of payments made to senior staff.

The Commissioner has decided that there was no obligation to provide the information that was requested about the University Visitor as this information is not held by the public authority for the purposes of the Act. The Commissioner has also decided that the PCO correctly applied the exemption under section 41 (Information provided in confidence) to the declared interests of Baroness Amos that had been withheld from the complainant. However, he has concluded that all information relating to payments made to senior staff should be disclosed, but without reference to individuals.

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 3 March 2005 the complainant submitted an FOI request to PCO asking for the following information:
 1. Copy of the contents of my Visitor (University of London) file ref 563(120) not including the information already sent to me – and any other material relating to me.

2. Details of all interests declared by Baroness Amos under the Ministerial Code of conduct or otherwise.
3. Details of all work undertaken for the PCO by Roy Beldam and all payments made to him by or on behalf of the PCO since 1998.
4. Details of all work undertaken by the PCO for the University of London from 1999-date and all payments made to the PCO in that period by or on behalf of the University of London.
5. Details of circumstances in which bonuses, performance related pay or any other addition to basic salary is paid to senior staff, in particular the clerk and deputy clerk of the PCO.
6. Details of any such payments made 2000-date.
7. Details of all visitor cases involving the University of London 1999-date.
8. Number of visitor cases heard 1999 to date, outcomes of each, number in which a hearing was (a) requested and (b) granted.

In the request, the complainant also stated that: "Insofar as any information relating to me which you possess falls within the Data Protection Act 1998, please also treat this as a request for data falling within the Act, including any data falling under s1(1)(e) of the Act."

3. The PCO replied to the complainant on 5 April 2005. In relation to each of the above components of the request, the PCO's response was as follows:
 1. Some information supplied, remaining information withheld under section 35 (Formulation of government policy) and section 42 (Legal professional privilege).
 2. PCO required extra time to consider the public interest test under section 40 (Personal information) and stated that a response would be supplied to the complainant by 19 April 2005.
 3. Information supplied.
 4. PCO stated that no information was found.
 5. Information supplied.
 6. Information withheld under section 40 (Personal information).
 7. Information provided.
 8. Information withheld under section 12 (Exemption where cost of compliance exceeds appropriate limit).
4. The complainant asked for an internal review on 6 April 2005, stating that:
 - all the withheld information should be disclosed,
 - some information in relation to 1 and 3 was not supplied (set out in letter),
 - no evidence was given to support the application of section 12 and in any event, part of the information requested could be supplied.
5. PCO replied to the complainant's request for an internal review on 29 April 2005, in which it:
 - upheld its use of sections 35, 40 and 42,
 - upheld its use of section 12, providing appropriate justification,
 - stated that the additional information the complainant expected to receive was either not held (with some clarification as to why this was the case) or that it did not form part of the information request of 3 March 2005.

6. On 12 April 2005 the PCO provided a response to the second part of the complainant's request for the details of all interests declared by Baroness Amos under the Ministerial Code of conduct or otherwise. The PCO supplied details of all interests recorded in the House of Lords Register of Peers interests but withheld information on all other interests declared under the Ministerial Code of Conduct under section 41 (Information provided in confidence).
7. On 25 April 2005, the complainant requested an internal review of the PCO's decision of 12 April 2005 in respect of the second part of his request. The PCO responded on 20 May 2005, upholding its original decision.

The Investigation

Scope of the case

8. On 20 July 2005 the complainant contacted the Commissioner to complain about the way his/her request for information had been handled. The complainant stated that he wished to complain about both decisions issued by PCO (29 April 2005 and 20 May 2005).
9. The complainant elaborated on his complaint in a letter to the Commissioner dated 13th December 2005, which set out the specific grounds to his complaint as follows:
 - Application of section 35 to some of the contents of his visitor file;
 - Withholding of information in relation to bonuses paid to the clerk and deputy clerk of PCO;
 - Reason(s) for not supplying the contents of the annex to the complainant's visitor file not specified;
 - Application of section 41 to information withheld in respect of the interests of Baroness Amos.
 - Application of the cost limit to information about the details of all Visitor cases since 1999.

Chronology

10. On 20 December 2005, the Commissioner commenced his investigation by writing to PCO to seek clarification on the procedural elements of the complaint, namely the application of the cost limit and clarification as to the PCO's basis for refusing to disclose the contents of the annex to the complainant's visitor file.
11. On 10 April 2006, the permanent head of PCO contacted the Commissioner to advise that the PCO had reconsidered its position in respect of information pertaining to the University Visitor. Specifically, he set out his view that a University Visitor is a creation of common law and not a public authority for the purpose of the Act. He went on to state that Baroness Amos' position as a

University Visitor is unconnected with her role as a Minister or member of the PCO and the fact that she is assisted in her Visitorial role by members of the PCO is not sufficient to bring the role within the scope of the Act.

12. On 14 August 2006, the Commissioner wrote to PCO to ask for the following information:

- Further information about the status of University Visitors
- Full, unredacted copies of all information withheld from the complainant in relation to interests declared by Baroness Amos and details of payments made to senior staff.
- Any further explanation to further justify the withholding of the abovementioned information.

13. PCO responded to the Commissioner's letter on 17 August 2006. It provided the Commissioner with the withheld information relating to Baroness Amos's interests and supplied a copy of Counsel's opinion on the legal status of the PCO and Privy Council. PCO also further justified its position, to which it made the following points (the following is directly quoted from the PCO's submission):

**Contents of the complainant's University of London Visitor file;
Details of all Visitor cases involving the University of London 1999 to date;
Number of visitor cases heard 1999 to date, outcomes of each, number in which a hearing was (a) requested and (b) granted.**

- i. This information is the property of the Visitor of the University of London, who is not a public authority for the purposes of the Act.
- ii. Visitors are a creation of the common law, and are deemed to exist in respect of all eleemosynary corporations, of whom Chartered Universities are a subset. They are entirely private to the foundation concerned and have no authority as regards the general public at all.
- iii. Although two Visitors happen to be Government Ministers the vast majority are not and it is quite clear, as a matter of law, that the fact that a Visitor also holds an office unconnected with the Visitorial role is not relevant to the question whether the Visitor is a public authority.
- iv. The fact that Baroness Amos is assisted in her Visitorial role by members of the Privy Council Office is not sufficient to bring it within the purview of the Act, as the information held on Visitor cases is held on behalf of the Visitor and is therefore outside the scope of the Act.
- v. The University of London's statutes provide that "5. The Visitor shall be the Sovereign acting through the Lord President of the Council." Although this technically means that The Queen is always advised before acting on any matter, the pragmatic view is taken that the Visitor is actually the Lord President of the Council, who is, of course, always a Government Minister. However, that is not sufficient to bring her within the definition of a Government Department. This is because the Privy Council itself is not a

government department and it is difficult to see how its President alone could be.

Details of all interests declared by Baroness Amos under the Ministerial Code of conduct or otherwise.

- i. The complainant has been provided with details of interest declared by Baroness Amos which are in the public domain (including all declarations made in the Register of Peer's interests). Any other information held by this office is information provided in confidence.
- ii. An absolute assurance is given to Ministers that details provided about personal interests will be treated in strictest confidence.
- iii. The public interest is protected by other systems, including the Register of Member's interests maintained by both the House of Lords and the House of Commons.

Details of all work undertaken for the PCO by Roy Beldam and all payments made to him on behalf of the PCO since 1998.

- i. Sir Roy Beldam is a retired Appeal Court judge whom the Visitor has, from time to time, asked to advise her on cases that come to her. He undertakes no work on behalf of the PCO. All work is undertaken on behalf of the Visitor who is not a public authority for the purposes of the Act.

Details of all work undertaken by the PCO for the University of London from 1999-date and all payments made to the PCO in that period by or on behalf of the University of London.

- i. The Privy Council itself (of which the Judicial Committee of the Privy Council is part) is not a public authority for the purposes of the Act. However, the PCO, which acts as the Secretariat of the Privy Council is a public authority.
- ii. Information held by the PCO that comes to it by virtue of the functions of the Privy Council is held by it on behalf of that body. Information held by virtue of its other functions (eg employment and office administration) is held on its on behalf. All non-Visitorial information held by the PCO relating to the University of London comes to it because of the powers exercised by the Privy Council in respect of the University. PCO has no dealings with the University of London that do not arise either by virtue of the Privy Council or the Visitor.

**Details of circumstances in which bonuses, performance related pay or any other addition to basic salary is paid to senior staff, in particular the clerk and deputy clerk of the PCO;
Details of any such payments made to date.**

- i. This is exempt by the straightforward application of section 40. The principles of the remuneration of senior civil servants apply to all Government Departments, and their publication and promulgation is the responsibility of the Cabinet Office. They are available through the civil service website at <http://www.civilservice.gov.uk/management/performance/scs/index.asp>.
14. As a result of the PCO's letter of 17 August 2006, the Commissioner was satisfied with the explanation provided by the PCO in respect of the status of the University Visitor. However, he required further explanation and clarification on the remaining points (withholding of senior staff payments and Baroness Amos' interests), on which PCO maintained its original position. The Commissioner wrote to inform PCO accordingly on 25 August 2006, in which he requested clarification on the following:

Interests declared by Baroness Amos

- i. How the withheld interests of Baroness Amos have the necessary qualities of confidence and how release would constitute an actionable breach of confidence.

Payments to senior staff

- i. How the PCO's position on details of payments to senior staff is consistent with (a) the strong public interest in disclosing the total amount of such payments and the number of staff who received such payments and (b) the fact that the PCO publishes details of benefits in kind paid to senior staff as part of its annual resource accounts.
 - ii. Whether details of individual staff members receiving such payments have been made public in the past.
15. The PCO replied to the Commissioner on 30 October 2006, in which it put forward the following points:

Interests declared by Baroness Amos

- i. The complainant has been provided with the vast majority of information that Baroness Amos declared under the Ministerial Code, and all the information registered in the Register of Peers' Interests.
- ii. Section 41 applies to some of the information provided by Baroness Amos for the following reasons:
 - 1. The information is inherently private.
 - 2. The information was disclosed to the PCO as a result of the obligations imposed by the Ministerial Code.
 - 3. The Ministerial Code expressly states that the information is provided in confidence.

- iii. There is a public interest in ensuring that there is an appropriate regime for eliminating any risk of conflict arising between a Minister's private interests and his or her official duties.
- iv. There is a strong public interest in protecting the confidentiality of the information provided by Ministers and in the circumstances of this case the public interest did not demand any greater disclosure than was provided to the complainant, where the only information that was withheld was personal information relating to the Minister's finances and family home.

Details of payments made to senior staff

- i. The answer to the following element of the complainant's request: "Details of circumstances in which bonuses, performance related pay or any other addition to basic salary is paid to senior staff" is already in the public domain and can be found at the internet address given in the letter to the Commissioner of 17 August 2006.
- ii. The second half of this request: "in particular the clerk and deputy clerk of the PCO" clearly does involve personal data, since it relates to two named individuals.
- iii. It could be argued that the request for: "Details of any such payments made 2000-date" goes wider than just those two individuals, but even if it does it would still amount to personal data since there were, in the period requested, so few members of the senior civil service in the PCO (for most of the time only three or four, including the two referred to) that it would be possible to identify individuals.
- iv. The PCO resource accounts do not publish details of performance-related pay increase or bonuses. All they show against each member of the senior civil service is the £5000 band into which his or her salary falls. This is not regarded as a precedent for releasing information about the precise amount of individual bonuses or performance pay, which clearly would be personal data, and would go beyond what the Treasury and Parliament have agreed is necessary for making available information about senior civil service salaries when Departmental accounts are published.

Findings of fact

16. The Commissioner found that University Visitors are entities which are legally separate to any other body and no public authority has a statutory function or otherwise in relation to the Visitor.
17. The Commissioner understands that, until 2004, each one of the long-established universities in England and Wales was overseen by a 'Visitor' whose role it was to determine disputes arising between the academic institution and its members. This role was private to the university to whom the Visitor undertook the role. Students at these universities had no right to go to court if they were dissatisfied

- with their teaching or feel they had been unfairly treated by the university authorities. The only appeal that could be made by a student outside the internal procedures of the university was to the University Visitor.
18. The Commissioner also understands that the historic role of a Visitor is to protect the interests of the founder of the corporation, and it is open to any member of the foundation to petition the Visitor – who is independent of the body itself – in respect of the interpretation and application of the body's internal law. In the case of *R v Hull University* (1993), the House of Lords concluded that the Visitor's jurisdiction was of such a private nature that it could not even be reviewed by the courts on a point of law, as the law applied by the Visitor was not the common law of England but the entirely private domestic law of the University.
 19. On 1 January 2005 the role undertaken by the Visitor was assigned to the Office of the Independent Adjudicator for Higher Education, under the terms of the Higher Education Act 2004.
 20. The Commissioner analysed the 'Register of Interests' provisions of the House of Lords Code of Conduct in order to establish and understand the interests which Peers are expected to declare. The relevant provisions of this code can be found in the annex.

Analysis

21. The relevant provisions of all sections of the Act to which references are made in the following paragraphs can be found in the legal annex.

Procedural matters

Information relating to University Visitors and Application of Cost Limit

22. The Commissioner finds that University Visitors are not subject to the Act. He therefore accepts that all the information in the possession of PCO relating to Baroness Amos in her capacity as a University Visitor was held on behalf of Baroness Amos in her capacity as a University Visitor.
23. The Commissioner notes the contents of correspondence sent by the PCO to another complainant in relation to a similar case (FS50125731) on 30 March 2006, in which it made the following points:
 - i. Although the jurisdiction of the University of London is exercised by someone who happens to be a Government minister that is not a relevant consideration. The Lord President of the Council does not act as Visitor in her Ministerial role as Leader of the House of Lords or as President of the Privy Council, since neither body has any functions relating to Visitors.
 - ii. A Visitor is the creation of the common law, which imputes a Visitor to any eleemosynary corporation (which is by nature a private foundation). The

Lord President's responsibilities as a Visitor are entirely separate from her Ministerial role. What matters is the nature of the role of a Visitor, and it is quite clear that the nature of that role is not a public one....since they are not in any sense exercising a public jurisdiction.

- iii. The Visitor cannot be brought within the meaning of the FOI Act by virtue of its extension to the governing bodies of universities. Visitors are emphatically not members of the governing body of the universities that fall within their jurisdiction, since those governing bodies are themselves subject to that jurisdiction. For a Visitor to be a member of the governing body would breach the rules of natural justice, since no one can be judge in his own cause. The Visitor is not part of the university at all.
24. The Commissioner accepts that the Privy Council and the Privy Council Office are separate institutions and further accepts that the Privy Council itself is not a public authority under the terms of the Act. To the extent that the PCO provides support to Baroness Amos in her capacity as a University Visitor, the Commissioner understands that it does not do so as part of its statutory functions of providing support to her as the President of the Privy Council.
 25. The Commissioner's view is therefore that the following elements of request are held by the PCO only on behalf of the University Visitor:
 - Copy of the contents of the complainant's Visitor (University of London) file ref 563(120) not including the information already sent to him – and any other material relating to him.
 - Details of all visitor cases involving the University of London 1999-date.
 - Number of visitor cases heard 1999 to date, outcomes of each, number in which a hearing was (a) requested and (b) granted.
 26. It therefore follows that PCO was not required to consider any exemptions under the Act in respect of this information. The Commissioner has therefore not considered the PCO's application of sections 12 (Cost limit), 35 (Formulation of government policy) and 42 (Legal professional privilege) in relation to elements of this information.
 27. However, although the Commissioner has decided that section 3(2) means that the above information is not held for the purposes of the Act and there is no obligation to supply it, he notes that the complainant was not informed of this in response to his request. Failing to advise that the requested information is not held is a breach of section 1(1)(a) of the Act.

Details of work carried out by / for the PCO

28. As a result of the Commissioner's analysis of section 3(2) of the Act, it follows that any work undertaken on behalf of Baroness Amos in her capacity as University Visitor is, if physically held by the PCO, held on behalf of the Visitor and therefore not held by the PCO for the purposes of the Act.
29. In addition, as the Privy Council and PCO are separate bodies and the former is not a public authority for the purposes of the Act, any work carried out on behalf

of the Privy Council in relation to the functions of that body in relation to University of London's statutes is also not held by the PCO for the purposes of the Act. This is because it is those university statutes which grant powers to the Lord President of the Council (the "head" of the Privy Council) to act as its Visitor. However, those statutes do not provide the PCO (a body which is legally separate to the Privy Council) with any functions in relation to this role. As such, this information is not held by Baroness Amos in her separate capacity of Ministerial head of the PCO.

30. The Commissioner does not therefore consider the work referred to in parts 3 and 4 of the complainant's request to be held by the PCO for the purposes of the Act and consequently believes that there is no obligation on the part of the PCO to supply this information.

Exemptions

Baroness Amos' interests

31. The Complainant was supplied with interests declared under the Ministerial Code of Conduct which were recorded in the House of Lords Register. The PCO informed the complainant that the interests recorded in the Register of Peers' Interests were:

12(f) Regular remunerated employment
 In receipt of Ministerial salary

13(b) Landholdings
 Land in Guyana

13(c) Financial interests of spouse or relative or friend
 Sister – partner in Amos Laycock, Consultancy Company, South Africa

15(b) Trusteeships of cultural bodies
 Friend of the Women's Library
 Trustee (ex officio), National Portrait Gallery

16(a) Trusteeships
 Trustee, Chequers Trust
 Trustee, Chevening Trust
 Trustee, Dorneywood Trust
 Patron of the Windsor Leadership Trust
 Friend of the Daycare Trust

All other interests declared under the Ministerial Code of Conduct were withheld under section 41 of the Act.

32. During the course of his investigation, the PCO furnished the Commissioner with a full, unredacted list of Baroness Amos' interests declared under the Ministerial Code of Conduct (as declared on 28 October 2003). Details of the existence or

non-existence of financial and non-financial interests were declared under the following headings:

- Directorships
- Financial interest
- Property
- Trade Unions
- Trusteeship of Cultural Bodies
- Trusteeships
- Inland Revenue

33. In order to determine whether disclosure of the withheld information would constitute an actionable breach of confidence (which would allow for section 41 to apply), after establishing that the information was obtained by the PCO from the Baroness, the Commissioner took the following considerations into account:
- Whether the information has the necessary quality of confidence about it;
 - The circumstances under which the information was provided;
 - Whether disclosure of the information would be to the detriment of the party to whom the duty of confidence is owed.
34. Having fully reviewed the interests of Baroness Amos withheld from the complainant, the Commissioner decided that details of the remaining information declared were correctly withheld under section 41. This is because the Commissioner does not consider any of the withheld information to constitute a 'relevant interest' under the terms of the House of Lords Register of Interests, as set out in the House of Lords Code of Conduct (see annex).
35. The Commissioner does not consider it reasonable that information relating to the interests of Baroness Amos, which is of a different characteristic to that which should be declared in the House of Lords Register of Interests, must be disclosed under the Act. He therefore considers the details of the remaining interests to have the necessary quality of confidence, to have been provided in confidence and that disclosure of this information would constitute an actionable breach of confidence by Baroness Amos.
36. The Commissioner has therefore decided that the PCO legitimately withheld the remaining interests declared by Baroness Amos.

Details of payments to senior staff

37. PCO refused to supply details of bonuses, performance related pay or any other addition to basic salary paid to senior staff of the PCO since 2000 on the basis that this information is exempt under section 40 (Personal information) of the Act.
38. In its submission to the Commissioner of 30 October 2006, the PCO stated that section 40 applies to the details of payments made to two named individuals as this constitutes personal data. PCO also stated that even if the request applied to a wider number of people than the two named individuals, the information would still amount to personal data since there are so few members of the senior civil

service in the PCO. This means that it would still be possible to identify individuals.

39. The Commissioner accepts that the requested information constitutes personal information. However, he does not consider this to be a sufficient reason in itself to apply section 40. Section 40(2) requires a public authority, on establishing that information constitutes personal data for the purposes the Data Protection Act 1998 (1998 Act), to assess whether disclosure would breach any of the data protection principles set out in the 1998 Act. In order to undertake this assessment the PCO should have focussed on whether disclosure of this information under the Act would have breached one or more of the data protection principles.
40. Whether information can be determined to be “personal data” under the terms of the DPA depends on whether a particular individual(s) can be identified by that information, together with how that information is held. In this case, the Commissioner accepts that disclosing the requested information by reference to individuals would constitute the release of personal data to which section 40 refers.
41. Nevertheless, the Commissioner believes that there is a legitimate public interest in the details of the requested payments being made available to the public. He recognises that ultimately all public sector employees are accountable to the public. However, the Commissioner is satisfied that in general, occupants of senior posts within public authorities (whatever public authority in which they may be employed) have for some time understood that they are more likely to be exposed to greater levels of scrutiny and accountability than staff in more junior positions.
42. The Commissioner takes the view that greater levels of scrutiny of staff in senior positions within public authorities will help to ensure that they are fully accountable for their actions when carrying out their professional duties, which is in the public interest.
43. However, the Commissioner recognises that his view about public servants in senior positions should, in this case, be balanced with the view of the PCO that details of payments by reference to individuals should be avoided.
44. The Commissioner therefore takes the view that in this case the PCO should have instead provided the details requested by the complainant as overall cumulative PCO totals without reference to individual recipients. He is satisfied that releasing the requested information in this form would be fair and would not breach any of the data protection principles.

The Decision

45. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

- i. Section 1(1)(a) in relation to its reconsidered response to details relating to the University Visitor.
 - ii. Section 41 (Information provided in confidence) in relation to the remaining interests declared by Baroness Amos under the Ministerial Code.
46. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:
- i. Section 1(1)(a) in relation to its obligation to inform the complainant that it did not hold some of the requested information for the purposes of the Act.
 - ii. Section 40(2) in relation to details of payments made to senior staff.

Steps Required

47. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- i. Provide the complainant with the information requested in relation to payments made to senior staff, without reference to individuals.
48. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

49. 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

50. 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@dca.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 23rd day of April 2007

Signed

**Richard Thomas
Information Commissioner**

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

Annex

Section 1(1)(a) of the Act provides that:

Any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request.

Section 3(2) of the Act provides that:

For the purposes of this Act, information is held by a public authority if –
(a) it is held by the authority, otherwise than on behalf of another person, or
(b) it is held by another person on behalf of the authority.

The relevant subsections of section 40 provide that:

- (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), and
 - (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

Section 1 (1) of the Data Protection Act provides that:

"personal data" means 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 intentions of the data controller or any other person in respect of the individual".

Section 41 of the Act provides that:

- (1) Information is exempt information if –
- (a) it was obtained by the public authority from any other person (including another public authority), and
 - (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
- (2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

Relevant sections of the House of Lords Code of Conduct (from 31 March 2002) are as follows:

What is a relevant interest?

9. The test of relevant interest is whether the interest might reasonably be thought by the public to affect the way in which a Member of the House of Lords discharges his or her parliamentary duties.
10. The test of relevant interest is therefore not whether a Member's actions in Parliament will be influenced by the interest, but whether the public might reasonably think that this might be the case.
11. Relevant interests include both financial and non-financial interests.

Relevant financial interests

12. The following financial interests are always relevant and therefore must be registered:
- (a) any consultancy agreement under which Members of the House provide parliamentary advice or services. A copy of any such agreement, and the remuneration received by Members for advice in relation to parliamentary matters, must be deposited with the Registrar of Lords' Interests, so that details are available for public inspection.
 - (b) employment or any other financial interest in businesses involved in parliamentary lobbying on behalf of clients, including public relations and law firms but Members of the House involved with organisations that offer commercial lobbying services are not obliged to refrain from participating in parliamentary business in connection with all clients of that organisation but only their personal clients;
 - (c) any remunerated service which Members of the House provide by virtue of their position as members of Parliament, and the clients of any such service;
 - (d) employment as a non-parliamentary consultant;
 - (e) remunerated directorships;

- (f) regular remunerated employment (excluding occasional income from speeches, lecturing, broadcasting and journalism);
- (g) shareholdings amounting to a controlling interest;
- (h) provision by an outside body of secretarial and research assistance;
- (i) visits with costs paid in the United Kingdom and overseas, made as a member of Parliament, except any visits paid for from public funds.

13. The list in paragraph 12 above is not exhaustive. For example, relevant financial interests may also include (depending on their significance):

- (a) shareholdings not amounting to a controlling interest;
- (b) landholdings (excluding Members' homes);
- (c) the financial interests of a spouse or relative or friend;
- (d) hospitality or gifts given to a Member which could reasonably be regarded as an incentive to support a particular cause or interest.

14. Except for remuneration received by Members for advice in relation to parliamentary matters, Members of the House are not required to disclose how much they earn from the financial interests set out in paragraphs 12 and 13, but they may do so if they wish.

Relevant non-financial interests

15. The following non-financial interests are always relevant and therefore must be registered:

- (a) membership of public bodies such as hospital trusts, the governing bodies of universities, colleges and schools, and local authorities;
- (b) trusteeships of museums, galleries or similar bodies;
- (c) acting as an office-holder or trustee in pressure groups or trade unions;
- (d) acting as an office-holder or trustee in voluntary or not-for-profit organisations.

16. The list in paragraph 15 above is not exhaustive. For example, relevant non-financial interests may also include (depending on their significance):

- (a) other trusteeships;
- (b) unpaid membership of voluntary organisations.

17. Members of the House are not obliged to register membership of Churches, religious bodies and quasi-religious organisations. But it may be necessary to declare such interests (see paragraph 8).