

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 July 2023

Public Authority: Independent Parliamentary Standards Authority

Address: 30 Millbank
London
SW1P 4DU

Decision (including any steps ordered)

1. The complainant has requested information about MPs' staff turnover. The Independent Parliamentary Standards Authority ("the IPSA") disclosed information in the form of an anonymised dataset, with some information removed under the exemption provided by section 40(2) (Personal information) on the basis that it would reveal the personal data of third parties.
2. The Commissioner's decision is that the IPSA has correctly applied section 40(2).
3. The Commissioner does not require further steps.

Request and response

4. On 12 December 2022, the complainant wrote to the IPSA and requested information in the following terms:

**“Please provide the following information broken down MP:

For the whole of the current Parliament (elected December 2019), the total number of staff hired by each MP.

For the whole of the current Parliament (elected December 2019), the total number of staff who have left the employment of each MP.”**
5. The IPSA responded on 24 January 2023. It disclosed information in the form of an anonymised dataset, with personal data removed under the exemption provided by section 40(2) (Personal information).
6. Following an internal review, the IPSA wrote to the complainant on 3 March 2023. It maintained the application of section 40(2).
7. During the Commissioner’s investigation, the IPSA informed the Commissioner that it also sought to rely upon section 38 to withhold the information.

Reasons for decision

8. This reasoning covers whether the IPSA is entitled to rely on section 40(2) (Personal information) of FOIA to refuse to provide some of the requested information.
9. Section 40(2) provides an exemption for information that is the personal data of an individual other than the requester and where the disclosure of that personal data would be in breach of any of the data protection principles.
10. Section 3(2) of the Data Protection Act 2018 defines personal data as:

“any information relating to an identified or identifiable living individual.”
11. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.

12. In this case, the IPSA has withheld the identities of MP's, and has replaced the identities with unique numbers so that the majority of the requested information can be disclosed in an anonymised form, but which allows a comparison of the data (staffing turnover, in the form of starters and leavers) for each year from 2019 onwards.
13. The Commissioner understands that the MP's identities have been withheld on the basis that their disclosure would reveal the personal data of past and present employees, namely their joining or leaving employment in an MP's office in a given year.
14. The IPSA has argued there is a range of information available that would reasonably allow such identification by being combined (e.g., the 'Register of Interests of Members' Secretaries and Research Assistants' (on the UK Parliament website), and social media (such as employment details on individual's profiles on linkedin.com)).
15. The complainant has argued that even with the disclosure of the MP's names, there is no feasible way that they could identify individual staff.
16. The Commissioner has considered the circumstances of the information, and specifically whether it represents personal data for the purposes of the Data Protection Act 2018.
17. Having done so, the Commissioner is satisfied that the information represents personal data. The small numbers of staff (on average five) associated with each MP, combined with other information already in the public domain (including that known by the individuals' colleagues or relatives), suggests that it is reasonably likely that individuals may be identified. This in turn would reveal biographical information about their employment, and that they had joined or left employment in a given year.
18. The next step is to consider whether disclosure of this personal data would be in breach of any of the data protection principles. The Commissioner has focussed here on principle (a), which states:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."
19. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
20. When considering whether the disclosure of personal information would be lawful, the Commissioner must consider whether there is a legitimate interest in disclosing the information, whether disclosure of the

information is necessary, and whether these interests override the rights and freedoms of the individuals whose personal information it is.

21. The Commissioner considers that the complainant is pursuing a legitimate interest – transparency about MPs' staffing - and that disclosure of the requested information is necessary to meet that legitimate interest.
22. The Commissioner must therefore balance this legitimate interest against the rights and freedoms of the individuals.
23. The Commissioner understands that the main basis of the IPSA's concern is that disclosure of the information would create a real risk of harm or distress to the individuals, as it would reveal their association with a given MP's office. The IPSA argues that this disclosure would put individuals at risk of being pursued by motivated seekers.
24. The Commissioner's guidance on section 40 explains that, when undertaking this balancing exercise, it must be considered whether potential harm or distress may be caused by disclosure. A given example of such a scenario is where **"disclosure may lead to the identification of informants, witnesses or members of a specific group which could lead to those individuals being subject to threats and harassment."**
25. The IPSA argued (in its internal review outcome) that:

"Due to their role, MP staff are associated with their MP, and the political beliefs and stances that MP holds. This makes MP staff vulnerable to verbal, online and in rare cases physical abuse. IPSA takes its responsibilities to their welfare seriously, targeting of staff does occur and, in that light, IPSA believes that disclosing the name of the employing MP, and thus enabling the triangulation of other information (register of MP staff interests, local knowledge, media coverage etc) can be assessed as high risk of the indirect identification of current and former staff."
26. The Commissioner has also considered the complainant's own arguments that the sought information is already largely public on the IPSA's website, in the form of yearly staffing for each MP, broken down by job title¹.

¹ <https://www.theipsa.org.uk/mp-staffing-business-costs/your-mp#mp-a>

27. However, the Commissioner understands that whilst this allows the public to see what job titles have existed in the MPs office for the year, it does not provide the public confirmation that an individual has joined or left employment in that year. The Commissioner does not therefore consider that the negates the IPSA's argument.
28. The Commissioner is also mindful that there is significant public transparency about MP's staffing. This includes the aforementioned information made available on the IPSA's websites, as well as the information disclosed by the IPSA in response to this request.
29. Having considered the above, the Commissioner has determined that the there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals. Therefore, he considers that there is no legal basis for the IPSA to disclose the requested information and to do so would be in breach of principle (a).
30. The Commissioner's decision is that the IPSA is entitled to rely on section 40(2) of the FOIA to refuse to provide the requested information. As the Commissioner finds the information to be exempt under section 40(2), he has not proceeded to consider the IPSA's application of section 38. The Commissioner requires no further action to be taken by IPSA in relation to this request.

Right of appeal

31. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. 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.
33. 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

Daniel Perry
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