

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 June 2016

Public Authority: Compliance Officer for the Independent Parliamentary Standards Authority

Address: 4th Floor
30 Millbank
London
SW1P 4DU

Decision (including any steps ordered)

1. The complainant has requested information relating to the names of the MPs who have had complaints about their expenses assessed but were not investigated. The Compliance Officer for the Independent Parliamentary Standards Authority (The Compliance Officer) refused to provide the requested information citing the exemption under section 40(2) of the FOIA (third party personal data) as its basis for doing so.
2. The Commissioner's decision is that section 40(2) is engaged for all complaints that are assessed as containing allegations of a criminal nature and for all complaints that are assessed and closed prior to investigation.

Background

3. The Independent Parliamentary Standards Authority (IPSA) was created by legislation after the 2009 MPs' expenses scandal. It is independent of the Government and Parliament. IPSA regulates MPs' business costs and expenses. It also sets their pay and pensions.
4. The post of Compliance Officer for IPSA was established by the Parliamentary Standards Act 2009 (PSA), as amended by the Constitutional Reform and Governance Act 2010.
5. The Compliance Officer is statutorily separate from IPSA and is a separate public authority for the purposes of the FOIA.

6. The PSA requires IPSA to set procedures for the Compliance Officer's handling of investigations. The Procedures for Investigation by the Compliance Officer for IPSA (the Procedures) can be found here:

[http://www.parliamentarycompliance.org.uk/transparency/Documents/Procedures%20for%20Investigations%20of%20the%20Compliance%20Officer%20for%20IPSA%20\(3rd%20Edition\).pdf](http://www.parliamentarycompliance.org.uk/transparency/Documents/Procedures%20for%20Investigations%20of%20the%20Compliance%20Officer%20for%20IPSA%20(3rd%20Edition).pdf).
7. The remit of the Compliance Officer is to:
 - conduct an investigation if he has reason to believe that an MP may have been paid an amount under the MPs' Scheme of Business Costs and Expenses (the Scheme) that should not have been allowed; and
 - at the request of an MP, review a determination by IPSA to refuse reimbursement for an expense claim, in whole or in part.
8. The Compliance Officer may decide not to initiate an investigation if he considers it unfair or disproportionate to do so. Reasons for this decision may include: the complaint is trivial or vexatious; the complaint does not relate to a claim for payment under the Scheme; the complaint repeats allegations that have already been the subject of an investigation; or the complaint is anonymous and there is no other good reason to investigate.
9. Where complaints relate to a misunderstanding of what MPs are permitted to claim for under the Scheme, the Compliance Officer is able to resolve matters prior to the opening of an investigation to the satisfaction of all parties.
10. The Procedures also list the circumstances under which information relating to complaints considered by the Compliance Officer is published (see paragraph 27 of the Procedures).
11. When the Compliance Officer opens an investigation, a brief notice of the investigation, including the name of the MP, is published on the website. At the conclusion of an investigation, a full report is published. Details of all open and closed investigations can be found at the following address:
<http://www.parliamentarycompliance.org.uk/transparency/Pages/open-and-closed-investigations.aspx>
12. In addition, the Compliance Officer publishes case handling statistics per quarter on the number and sources of all cases handled by the Compliance Officer during the year. This link has been updated since the date of the original request and now includes more detailed information on each complaint. (see paragraph 23 below)

<http://www.parliamentarycompliance.org.uk/transparency/Pages/Complaints-handled.aspx>

Request and response

13. On 3 November 2015 the complainant made the following request for information:

'Description of information sought:

In the link below it shows a breakdown of the 40 complaints received and handled by the compliance office in 2014/15. Can you provide more information about the nature of the complaints, broken down by each of these sources and identify the results that came from those cases – for example what was claimed that prompted the complaint, which MP made the claim and how much for and what was the result in each case – did IPSA refuse to pay a claim or did it result in a repayment to IPSA?

<http://www.parliamentarycompliance.org.uk/transparency/CaseHandlingStatistics/2014-15/Case%20handling%20statistics%20-%202014-15.pdf>

Can IPSA also provide the same information for as many previous consecutive financial years as possible within cost limits?'

14. On 3 December 2015 the Compliance Officer provided a response. He explained that *'in the majority of cases, complaints contain little or no evidence of any Scheme breach and are therefore closed prior to an investigation.'*
15. The Compliance Officer provided a spreadsheet with details of all complaints handled in the financial years 2012-13, 2013-14 and 2014-15, including: the date of the complaint; the source of the complaint (by category); a brief description of the allegation or complaint; the outcome; and the reason for the outcome. This has now been published on the website.
16. The Compliance Officer withheld the personal identities of both the complainants and the MPs (except for instances where the information is already publicly available) under section 40(2) (Personal Information) of the FOIA:

'A significant proportion of complaints received are malicious in nature, designed to tarnish the reputation of the MP with little, if any, supporting evidence. We do not believe it would be 'fair' – under the

definition proscribed in the DPA – nor in the public interest, to disclose the MPs' names, indirectly associating them with such complaints.'

17. On 11 December 2015 the complainant requested an internal review of the decision to withhold the personal identities of the MPs. He argued:

- I believe the public interest and the nature of their elected roles tips the balance towards disclosing the personal identities of the MPs.
- With regards fairness, you mention in your initial FOI reply to me that a significant proportion of the complaints received are malicious in nature and it would not be fair to indirectly associate MPs' names with such complaints. I argue that if the case were closed prior to investigation, and the reason for why was supplied, then it is fair to MPs to disclose their personal identities as it illustrates publicly they have been exonerated.
- With regards MPs' expectations at the time the information was collected and at the time of the request, every MP knows their expenses are chronicled in minute detail and subject to serious scrutiny as they are all routinely published. The expectation that all expenses will be published should be well understood by all MPs as should the process of potential investigation, which I believe includes the opportunity for the MP to respond and explain. It would also be fairer to all 650 MPs to name the MPs involved in these 87 complaints over three years.
- With regards the legitimate interests of the public having access to this information, the public interest is illustrated best by the fact expenses claims are routinely published because Parliament acknowledges that is how transparent MPs' expenses should be.
- With regards the rights and freedoms of the data subjects, MPs do not have the same reasonable expectation of privacy as a lay person by necessity of having an elected role in the public eye and their expenses being published. MPs are subject to more scrutiny than that to which lay people are subject.
- The MPs have consented to the disclosure by virtue of subscribing to a transparent expenses system and being subject to possible investigation by IPSA and the Compliance Officer as laid out in law. There is a legitimate interest in disclosure to the public as it is in the public interest to see the Compliance Officer investigates without fear or favour and for its work to be seen to be done as well, as it is a body created at taxpayers' expense to ensure the transparency of elected officials paid from the public purse acting

for the public. Disclosing these names is in the interests of preserving the integrity and public faith in Parliament and politics.

- I argue the disclosure is necessary to ensure transparency in MPs' expenses but also in the integrity of investigations by IPSA and the Compliance Officer.
 - IPSA's decision to repeat one MP's name in connection with allegations of a criminal nature, as well as two names in connection with closed investigations, shows that IPSA knows that disclosure is indeed lawful.
18. On 21 January 2016 the Compliance Officer provided the outcome of the internal review (letter dated incorrectly as 20 November 2015) which took into account all of the complainant's submissions and upheld his decision to refuse the names of the MPs citing section 40(2) (Personal Information) of the FOIA.
19. The Compliance Officer stated that *'the identities of the MPs are considered personal data under the terms of the Data Protection Act 1998 (DPA), and sensitive personal data in a limited subset of cases'* (3 complaints in 2014/15 where the complaint contained allegations of a criminal nature and were referred to the Metropolitan Police Service.)
- In considering fairness in this context our procedures for handling complaints and the information we publish about this are relevant as they bear on MPs' reasonable expectations as to how we will use their personal data.
 - The Procedures, in setting out when information must be published, balance the legitimate interests of the public in transparency and accountability with the rights and freedoms (including as to data protection and privacy) of MPs.
 - Where the Compliance Officer considers that an investigation is warranted, information including the particular MP's name is published.
 - Neither the procedures nor PSA provide for information to be published identifying that an allegation was made against a particular MP which did not warrant an investigation being opened...it is not in the reasonable expectations of MPs as data subjects that information identifying them will be disclosed under FOIA.

20. The Compliance Officer considered the point from the complainant that MPs do not have the same reasonable expectations of privacy as lay persons.
 - *'Whilst I accept this argument in part, there are still limits to what an MP may reasonably expect to be made public. I have also taken into account the point you make that the previous expenses scandal and increased scrutiny of MPs' expenses claims is relevant here. However I do not consider that it follows from these points that MPs would reasonably expect their names to be made public in these circumstances when the procedures and PSA do not provide for this.'*
21. The Compliance Officer also considered whether *'any prejudice might potentially result from the publication of the fact that an unsubstantiated or for instance wholly trivial/vexatious allegation has been made against an MP. My assessment on this point is that there is likely prejudice in the form of media coverage which may be time consuming to deal with. I recognise that MPs are democratically accountable public figures who are likely to face a range of allegations at some point in the course of performing their role. This however does not in and of itself reduce any likely prejudice from this particular disclosure.'*
22. The Compliance Officer also considered the point from the complainant *'that the publication of the MPs' names would illustrate that they had been exonerated of the allegations. In my view such publication would only convey that an allegation had been made which was not proven or was otherwise judged not to warrant an investigation being opened, which is not the same as and less than exoneration.'*
23. The Compliance Officer stated that he had given careful consideration to the legitimate interest in the public knowing about the operation of the regulation of the MPs' expenses Scheme and, following this request, will now publish on a quarterly basis, the anonymised information about complaints for which an investigation was not opened. (see link in paragraph 12 above)
24. The Compliance Officer stated that anyone may now view the summary of complaint information and can ask follow up questions. *'This mechanism provides an appropriate balance between transparency and accountability in relation to my complaint handling function, and the data protection and privacy rights of MPs (and other individuals) that I receive personal information about.'*
25. The Compliance Officer stated that the above mechanism (as well as the potential for complaints about the office-holder to be referred to the Board for IPSA) responded to the complainant's point that it is important

for the public to be able to assess whether the office-holder is conducting the role without fear or favour.

Scope of the case

26. The complainant contacted the Commissioner on 26 January 2016 to complain about the way his request for information had been handled. He asked the Commissioner to investigate if IPSA was correct to withhold the MPs names arguing that:

- The broad principles in decision notice FS50073293 are relevant in that 'if individual MPs had not been elected to carry out their role as public representatives they would not be entitled to claim the related expenses.'
- IPSA has already named one MP as being subject of a complaint containing allegations of a criminal nature (and not others) shows that IPSA acknowledges disclosure of the other outstanding MPs' names is lawful and fair.
- It would be fairer to all 650 MPs to name the MPs involved in the 87 complaints over the 3 years; members of the public should know if their elected representative is properly investigated.
- MPs do not have the same reasonable expectation of privacy as a lay person; all MPs expect their expenses to be published and subjected to serious scrutiny.
- MPs have given explicit consent to disclosure of their personal data by becoming an MP and subscribing to the transparent expenses system and the possible investigation by IPSA and the Compliance Officer.
- Disclosure is necessary to ensure transparency in MPs' expenses but also in the integrity of investigations.

27. The Commissioner considers the scope of this case to be to determine if the Compliance Officer has correctly applied section 40(2) FOIA to the withheld information (the names of the MPs in the cases where complaints about expenses have been assessed but were not investigated).

Reasons for decision

Section 40(2) – Third party personal data

28. This exemption provides that any third party personal data is exempt if its disclosure would contravene any of the Data Protection Principles set out in Schedule 1 of the Data Protection Act (DPA).

Is the withheld information personal data

29. Personal data is defined by the DPA as any information relating to a living and identifiable individual.
30. The two main elements of personal data are that the information must 'relate' to a living person and that the person must be identifiable. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them and has them as its main focus or impacts on them in any way.
31. The Commissioner considers that the information withheld under section 40(2) is information from which living data subjects would be identifiable.

Sensitive personal data

32. Any consideration of fairness must first determine whether the requested information is defined as sensitive under the DPA. Section 2 of the DPA defines sensitive personal data as information which relates to:
- (a) racial or ethnic origin
 - (b) political opinions
 - (c) religious beliefs
 - (d) trade union membership
 - (e) physical or mental health
 - (f) sexual life
 - (g) criminal offences, sentences, proceedings or allegations.
33. The Commissioner notes that the Compliance Officer assesses and investigates allegations and complaints about how MPs make claims under the MPs' Scheme of Business Costs and Expenses. (The Scheme). These are brought to the Compliance Officer by IPSA, members of the public and others. Some examples of the complaints are:
- Complained that a letter sent by the MP to constituents was unsolicited

- Alleged that staff employed by MP were engaged in non-parliamentary work during contracted hours and constituency office used for party activity
 - Alleged that a claim for a taxi journey was outside Scheme rules
 - Staffing costs
 - Alleged that family business registered at accommodation address claimed by MP under the Scheme
34. The Commissioner considers that there are three categories or levels of complaints to be considered here:
- Complaints including allegations of a criminal nature
 - Complaints that lead to an investigation by the Compliance Officer
 - Complaints that do not lead to an investigation by the Compliance Officer

Complaints including allegations of a criminal nature

35. The Commissioner considers that where a complaint includes 'allegations of a criminal nature' that this is clearly sensitive personal data under section 2(g) of the DPA. In these cases, the Compliance Officer's assessment is suspended and the complaint is referred to the Metropolitan Police Service.

Complaints that lead to an investigation by the Compliance Officer

36. Where the Compliance Officer initiates an investigation, the name of the MP is published on the website alongside details of the complaint. This follows the Procedures and is known by all MPs. Therefore the Commissioner does not need to consider if these names are sensitive personal data.

Complaints that do not lead to an investigation by the Compliance Officer

37. The first question for the Commissioner to consider is whether the names of MPs who have had an allegation or complaint made against them but the Compliance Officer's assessment shows that there was no evidence of a Scheme breach, is personal data or sensitive personal data.
38. The Procedures do not cover publication in these cases where the Compliance Officer decides that a complaint is not valid or does not initiate an investigation.

39. However, in the interests of transparency, the Compliance Officer has published statistics on all complaints handled. Following this request the Compliance Officer has also published further information on the complaints that do not lead to an investigation. He has not published the names of the MPs or the names of the complainants.
40. The Commissioner considers that although the allegations and complaints do not include criminal allegations, they are allegations and could be said to fall under section 2(g) of sensitive personal data under DPA.
41. However, in all cases the assessment by the Compliance Officer finds that there is no breach of the Scheme. The Compliance Officer has not considered these names as sensitive personal data and the Commissioner does not consider that the names in this case would be sensitive personal data.

Would disclosure breach the Data Protection Principles?

42. The Data Protection Principles are set out in Schedule 1 of the DPA. The first principle and the most relevant in this case states that personal data should only be disclosed in fair and lawful circumstances. The Commissioner's considerations below have focused on the issue of fairness.
43. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of the individuals, the potential consequences of the disclosure and whether there is legitimate public interest in the disclosure of the information in question.

Reasonable expectations

44. Whether an individual might reasonably expect to have their personal data released depends on a number of factors. These include whether the information relates to an employee in their professional role or to them as individuals, the individual's seniority or whether they are in a public facing role.
45. The information in this case concerns the personal information and sensitive personal information of named individuals. All are MPs making expense claims under the Scheme.
46. The complainant referred to the broad principles in the 2008 decision notice FS50073293 as relevant: *'it is only because such costs are considered to be expenses arising from the holding of public office that they are reimbursable from the public purse.'*

47. He stated that the transparency of MPs' expense claims had moved on since then and that all MPs know that their expenses will be recorded in minute detail and by assuming and continuing in public office, an MP *'subscribes to every element of the transparency of the expenses system'*.
48. The Compliance Officer states that MPs have an expectation of publication of their names for investigations into complaints in line with the Procedures but there is nothing in the Procedures about the assessed cases i.e. the complaints about expenses that are assessed as not valid (see paragraphs 8 and 10 above):

'Neither the procedures nor the PSA stipulate the publication of information identifying the identity of an MP against whom an allegation is made where there is insufficient evidence to justify the opening of an investigation (which would include the withheld information). Consequently, it is not the reasonable expectation of MPs, as data subjects, that information identifying them will be disclosed under FOIA'

49. The Compliance Officer states that this indicates Parliament's view on this point and balances the legitimate interests of the public in transparency and accountability with the rights and freedoms (including as to data protection and privacy) of MPs.
50. Where the Procedures do not provide for information to be published, the Compliance Officer argues that it is *'clearly implicit, and hence reasonable to expect, that the information will not be published'* and that *'the procedures created thereunder, are drafted with the clear intention of providing the Compliance Officer with the exercise of discretion'*.
51. The Commissioner would summarise as follows: if allegations are found to be in breach of the Scheme then names are published, but if the allegations are assessed as not breaching the Scheme then the names are withheld.

Complaints including allegations of a criminal nature

52. The Commissioner considers that a complaint including 'allegations of a criminal nature' is sensitive personal data and the names of the MPs should not be disclosed.

Complaints that lead to an investigation by the Compliance Officer

53. Where the Compliance Officer initiates an investigation, the name of the MP is published on the website alongside details of the complaint. This

follows the Procedures and is known by all MPs. The Commissioner does not need to consider this as there is a clear expectation of disclosure.

Complaints that do not lead to an investigation by the Compliance Officer

54. The Commissioner has considered the arguments from both the complainant and the public authority.
55. The Commissioner notes that MPs have reasonable expectations that their expenses are closely examined. MPs also have clear expectations about what is published from the Procedures for any investigation about a complaint into their claims for expenses. This has now been in place for some years.
56. MPs do not have an expectation of publication where a complaint or allegation is assessed as not breaching the Scheme.
57. Therefore the Commissioner accepts that MPs would have no expectation of disclosure for complaints and allegations that are assessed as not breaching the Scheme and do not lead to an investigation by the Compliance Officer.

Consequences of disclosure

58. Disclosure is unlikely to be fair if it would have unjustified adverse effects on the named individuals.
59. The Compliance Officer has stated that disclosure of the names in these cases would be distressing for the identified individuals:

'the vast majority of complaints received do not warrant an investigation being opened. Many contain unsubstantiated allegations while others are merely cathartic and contain no specific allegation at all. Both are often based on ill-informed hearsay...

Although an investigation is unwarranted, some damage may already have been done as, the complainant will frequently disclose to the local media, the fact that they have made a complaint to the Compliance Officer.'

60. The Compliance Officer provided an example where the complaint had been reported in the local newspaper and that the level of attention was *'close to harassment'*. He also recognised that this is *'an inevitable consequence of the job of being an MP and being on the public stage'* but considered that disclosure of the names with the assessments would not help: *'In my experience, publication is, in itself, sufficient to justify an adverse reaction by the public and the media. The fact that the*

complaint does not progress to an investigation does not remove the stigma as there is no overt exoneration.'

61. The Compliance Officer explained the process of assessing and investigating the complaints and stated that this might be affected if the names were disclosed:

'when a complaint is received and an MP contacted they are informed in writing (and verbally, if a meeting takes place) that the Procedures only provide for information to be published where the Compliance Officer judges that a breach of the rules may have occurred and, in consequence, an investigation is to be opened.... Frequently, where the complaint is so trivial that no assessment work is required, the MP will not have been informed that a complaint was received.'

While I accept in part that MPs, as public figures holding elected office, should, in general, have a higher expectation of information being disclosed, I do not believe this extends to the disclosure of personal data by a public authority linking them to unfounded and entirely unsubstantiated allegations, where, in my professional judgement, there is no case for them to answer. ... there would be a disastrous and wholly disproportionate impact on an MP's reputation when there was no evidence of impropriety. This would merely serve to encourage a plethora of copycat complaints.'

62. The Compliance Officer was also concerned that *'MPs may be considerably less likely to cooperate with the Compliance Officer when complaints are received, if they know that their personal data will be disclosed regardless of whether the complaint warrants a formal investigation. ... MPs will speak candidly about sensitive personal or employment issues, knowing that that their disclosures will remain confidential.'*

63. In his submissions to the Commissioner, the Compliance Officer considered that section 31(1)(g) (Law Enforcement) may be engaged:

'This would be on the basis that it would prejudice the exercise of my statutory functions relating to ascertaining whether any person is responsible for any conduct which is improper (s.31(2)(b)) or whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise (s.31(2)(c)).'

64. Upon viewing the contents of the withheld information, the Commissioner's view is that the process of gaining information for the assessment is not strictly relevant to whether the name of the MP is published alongside a summary of the complaint. The gathering of potentially *'sensitive personal and employment'* information is not

currently published in the summary of the complaint and its outcome (no investigation) and this need not change if the MPs were identified. Therefore, the Commissioner considers that it is not necessary to consider if section 31 is applicable here.

65. The Compliance Officer has not contacted the MPs to seek disclosure of their names in response to the request and has stated that it would not be reasonably practical or proportionate to do so.
66. The complainant states that MPs have consented to disclosure by becoming an MP and '*subscribing to the expenses system in place...a completely transparent regime... and the possible investigation by IPSA and the Compliance Officer*'.
67. The complainant has referred to the inconsistency in the application of the disclosure of the names of MPs. He referred to the decision to release one name (out of three) in connection with allegations of a criminal nature. This was explained by the public authority that it was the complainant of the allegation that had (first) made the details public. The complainant views this as showing that IPSA acknowledges disclosure of the other outstanding MPs' names is lawful and fair.

Complaints including allegations of a criminal nature

68. The Commissioner considers that a complaint including 'allegations of a criminal nature' is sensitive personal data and the names of the MPs should not be disclosed. (The assessment is suspended and the complaint is referred to the Metropolitan Police Service.)

Complaints that lead to an investigation by the Compliance Officer

69. The names of the MPs are already disclosed for these complaints and therefore the Commissioner does not need to consider the consequences of disclosure.

Complaints that do not lead to an investigation by the Compliance Officer

70. The Commissioner notes that allegations are sometimes made public by the complainants of the allegations and that this can be considered an inevitable consequence of being an MP.
71. The Commissioner considers that MPs expect to have their expense claims closely examined but there is a line to be drawn about disclosing their names in relation to complaints (often spurious) about the expense claims which are assessed as not valid for investigation.
72. This is similar to the General Medical Council (GMC) which refuses to confirm or deny whether the GMC receives complaints about a particular

doctor. The Commissioner upheld this position. (see decision notice [FS50623843](#))

73. The Commissioner considers that it would be unfair to disclose the names of the MPs in these circumstances.

Balancing the rights and freedoms of the individuals with the legitimate interests in disclosure

74. Given the importance of protecting an individual's personal data, the Commissioner's 'default' position in cases where section 40(2) has been cited is in favour of protecting the privacy of the individuals. Therefore, in order to find in favour of disclosure, it would need to be shown that there is a more compelling interest in disclosure which would make it fair to do so.
75. In the case of complaints where criminal allegations are made, the Commissioner is not convinced that the information requested is of sufficient wider public interest to warrant overriding the protection of the third party sensitive personal data of those concerned at this stage i.e. at the stage where the investigation by the Compliance Officer is suspended and the complaint is referred to the Metropolitan Police Service.
76. Allegations, whether investigated or not, whether found to be a breach or not, are in general not disclosed into the public domain under FOIA. However, in this case there are two main differences for the Commissioner to consider:
- The first is that this case involves the names of MPs who are making claims for expenses in a completely transparent system that was introduced by PSA in 2009 following the expenses scandal. MPs have an expectation that their expenses will be subject to minute scrutiny and that complaints will be investigated.
 - The second is that the names of MPs are already published at the start of the investigation if the complaint is found to be in breach of the Scheme. Complaints that do not lead to an investigation are now published but without the names of the MPs.
77. The Compliance Officer stated that the current level of publication *'satisfies the legitimate interests of the public in providing assurance that public funds are being administered properly. I do not think that, in this instance, the legitimate interests of the public are furthered to any appreciable extent by the disclosure of the names of MPs against whom*

there has been no adverse finding and who have been the subject of unfounded accusations and who would be subject to further prejudice and harm resulting from any disclosure'

'The direct consequence of requiring disclosure of the names of MPs where complaints have been subject to careful assessment and found not to warrant formal investigation, is that my office and my website would become a platform for anyone to publicly associate any complaint, slur or accusation against an MP regardless of whether there was any truth in the accusation. It would belittle my office and undermine my ability to conduct my affairs objectively, rationally and logically. It would not serve our democratic system and would be contrary to the public interest.'

Complaints including allegations of a criminal nature

78. The Commissioner considers that where a complaint includes 'allegations of a criminal nature' the names of the MPs should not be disclosed at this stage. The Commissioner is not convinced that the information requested is of sufficient wider public interest to warrant overriding the protection of the third party sensitive personal data.

Complaints that lead to an investigation by the Compliance Officer

79. The names of the MPs are already disclosed for these complaints and therefore the Commissioner does not need to consider balancing the rights and freedoms of the individuals with the legitimate interests in disclosure.

Complaints that do not lead to an investigation by the Compliance Officer

80. Having considered the Compliance Officer's submission and the views of the complainant the Commissioner is satisfied that the Compliance Officer's arguments for protecting the individuals' personal data is more compelling in this case: i.e. the names of the MPs who have had a complaint made against them but were assessed as not being a breach of the Scheme and not investigated.
81. There is sufficient information put into the public domain about MPs expenses and the expense claim process. The Compliance Officer, following the Procedures, already publishes sufficient information to demonstrate the integrity of investigating complaints about expense claims.
82. Where the complaint has been assessed as not a breach of the Scheme, the Commissioner concludes that the name of the MP should not be

published. The legitimate public interest does not outweigh the private rights and freedoms and legitimate interests of the MPs.

Conclusions

83. In the case of complaints where criminal allegations are made, the Commissioner concludes that the names of the MPs are sensitive personal information and should be withheld under section 40 of FOIA.
84. The Commissioner is also satisfied that it would not be fair to disclose the names of the MPs in complaints that do not lead to an investigation. The Commissioner upholds the Compliance Officer's application of the exemption provided at section 40 of FOIA.

Other Matters

85. Although it is not part of the Commissioner's remit to comment, he would suggest that for the sake of consistency, the Compliance Officer should consider not releasing any name where there is an allegation of criminality and the investigation is suspended, even if the name has been published elsewhere.

Right of appeal

86. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

87. 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.
88. 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

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