

Freedom of Information Act 2000 (Section 50)

Decision Notice

22 April 2009

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

Summary

The complainant requested correspondence and documentation regarding the House of Commons' Register of Members' Interests, with specific reference to rules governing the declaration or otherwise of overseas trips organised and funded by The British Council. The House of Commons withheld the information under section 34(1) of the Act. When the complainant brought the matter to the Commissioner, the Speaker of the House of Commons issued a certificate under section 34(3) of the Act, serving as conclusive evidence that the exemption is required to avoid an infringement of the privilege of the House of Commons. The Commissioner therefore concludes that the House of Commons is exempt from section 1(1)(b) for the purpose of this request and no further action is required.

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 18 August 2008 the complainant wrote to the House of Commons and requested:

"1. All correspondence (including emails) from Alda Barry, the Registrar of Members' Interests to any MP or officer of the House which specifically relates to the issue of whether members should declare in the House of Commons Register of Members Interests overseas visits organised and or paid for by The British Council.

2. All internal documentation (including emails) held by the Registrar and her staff which specifically relate to the rules on MPs registering trips organised and funded by The British Council.
3. Any general guidance produced by Alda Barry which specifically relates to the issue of MPs registering overseas visits organised and funded by the British Council.”
3. On 10 September 2008 the House of Commons responded and applied the exemption under section 34(1) of the Act to point 1 of the request. It also stated that the remainder of the requested information is not held.
4. The complainant requested an internal review of the application of the exemption under section 34(1), and argued that the disclosure of the information would not disrupt the functioning of the Office of the Registrar.
5. The House of Commons responded on 7 October 2008 and upheld its decision to apply section 34(1) to point 1 of the request. It provided a series of arguments as to why the exemption is required to avoid infringing upon the privileges of the House of Commons. It also informed the complainant that if he wished to press the matter any further, a certificate from the Speaker of the House of Commons would be sought in order to provide conclusive evidence that it is necessary to apply the exemption.

The Investigation

Scope of the case

6. On 26 November 2008 the complainant asked the Commissioner to consider the House of Commons' decision to refuse to provide the information under point 1 of the request.

Chronology

7. Following receipt of notification of the complaint being submitted to the Commissioner, on 23 December 2008 the House of Commons forwarded a copy of a certificate issued by the Speaker of the House of Commons under section 34(3) of the Act referring to point 1 of the request. Guidance published by the Ministry of Justice regarding the section 34 exemption states that a certificate is not normally issued until a request is referred to the Commissioner.

Exemption

Section 34 – Parliamentary privilege

8. Section 34(1) provides that –

“Information is exempt information if exemption from section 1(1)(b) is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.”

9. Section 34(3) provides that –

“A certificate signed by the appropriate authority certifying that exemption from section 1(1)(b), or from section 1(1)(a) and (b), is, or at any time was, required for the purpose of avoiding an infringement of the privileges of either House of Parliament shall be conclusive evidence of that fact.”

The Decision

10. The Commissioner’s decision is that the certificate issued by the Speaker of the House of Commons under the provisions of section 34(3) of the Act serves as conclusive evidence of exemption from the duty to disclose the information it holds under section 1(1)(b).

Steps Required

11. The Commissioner requires no further steps to be taken.

Right of Appeal

12. 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@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

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.

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 22nd day of April 2009

Signed

**Steve Wood
Assistant Commissioner**

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

Legal Annex

Freedom of Information Act 2000

General Right of Access

Section 1(1) provides 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.”

Parliamentary privilege

Section 34(1) provides that –

“Information is exempt information if exemption from section 1(1)(b) is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.”

Section 34(2) provides that –

“The duty to confirm or deny does not apply if, or to the extent that, exemption from section 1(1)(a) is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.”

Section 34(3) provides that –

“A certificate signed by the appropriate authority certifying that exemption from section 1(1)(b), or from section 1(1)(a) and (b), is, or at any time was, required for the purpose of avoiding an infringement of the privileges of either House of Parliament shall be conclusive evidence of that fact.”

Section 34(4) provides that –

“In subsection (3) "the appropriate authority" means-

- (a) in relation to the House of Commons, the Speaker of that House, and
- (b) in relation to the House of Lords, the Clerk of the Parliaments.