



## MPs' allowances and FoI requests

Standard Note: SN/PC/04732

Last updated: 22 June 2009

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Section: Parliament and Constitution Centre

This Standard Note sets out details of the major Freedom of Information (FoI) requests made to the House of Commons since the introduction of the right to make individual requests in January 2005. It also describes the actions taken by the House of Commons in response to the requests and subsequent decisions by the Information Commissioner, the Information Tribunal and the High Court. It sets out the proposals contained in the draft *Freedom of Information (Parliament) Order 2009* which was due to be debated by both Houses on 22 January 2009, but was withdrawn by the Leader of the House on 21 January 2009. This draft Order would have exempted from FoI details of allowances claimed by MPs and peers, although the total annual expenditure would still have been available. The Commons published on its website on 18 June printed documents and receipts relating to MPs' claims dating back to 2004/05 and up to 2007/08. These were redacted to remove addresses and other items, to ensure security of Members in line with the *Freedom of Information (Parliament and the National Assembly for Wales) Order 2008*, passed in July 2008.

### Contents

1	Introduction	3
2	Release of information on allowances October 2004	3
3	Allowances decisions from Information Commissioner and Information Tribunal	4
4	Members' addresses	8
5	The draft <i>Freedom of Information (Parliament) Order 2009</i>	12
6	The Scottish Parliament and FoI requests on allowances	21
7	The <i>Freedom of Information (Amendment) Bill 2006-07</i>	22
	Appendix: The motion on the publication scheme for Members' allowances and the proposed changes to the FoI Act	24

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## 1 Introduction

The Labour Government's white paper of December 1997 did not include both Houses of Parliament within the ambit of the proposed Freedom of Information (FoI) legislation. However, at the suggestion of the Public Administration Select Committee, the Home Secretary, then Jack Straw, included Parliament within the Bill which was introduced in the 1999-2000 session. Because it focused on other matters, the Commons did not debate the principle of extending FoI to Parliament during the passage of the Bill, which became law in 2000. The Act also applied the provisions of the *Data Protection Act 1998* to Parliament. However, the individual right of FoI access was not brought into force until January 2005. There are two absolute exemptions in the legislation applicable to Parliament; section 34 protects parliamentary privilege and section 36(6) confidential advice.

The Speaker has the power to issue a certificate indicating that these exemptions apply and these may not be challenged in the courts. A certificate was issued by the Speaker of the Commons, under section 36(6) in 2006 in relation to a request for the names and salaries of Members' staff, on the grounds that the release of this information would be likely to prejudice the effective conduct of public affairs.<sup>1</sup>

It should be noted that FoI does not apply to individual MPs who are not public authorities for the purpose of the legislation. Advice is available from the Department of Resources for MPs who receive FoI requests.<sup>2</sup> Correspondence from MPs held by a public authority may be disclosable, however.<sup>3</sup>

The interaction between FoI and data protection (DP) is complex. DP is used when someone wants to find out about information held about themselves, and FoI is used when someone wants to find out information about another person (or third party). However, section 40 of the FoI Act prevents the disclosure of personal data where this would breach the data protection principles set out in the DPA.

Where a public body refuses a request, the applicant can complain to the Information Commissioner, who will review the decision of the public body. A further appeal lies to the Information Tribunal. An appeal can be made to the High Court from the Tribunal only on a point of law.

## 2 Release of information on allowances October 2004

As preparation for implementation, the administration of both Houses released information on individual Members' allowances in October 2004. In the Commons, this followed decisions of the House of Commons Commission, the statutory body responsible for the administration of the House.<sup>4</sup> There is no statutory equivalent to the Commission in the House of Lords, although the House of Lords administration has many similar functions. The allowances information has been updated annually. The process leading to the decision by the Commission to release a total sum for each allowance, rather than a detailed breakdown, is given in the Information Tribunal decision of 16 January 2007 (see below).

On 29 January 2004, the House agreed to delegate a number of responsibilities concerning the House of Commons: Members Estimate (the budget from which Members are paid and their allowances funded) and some responsibilities previously conferred on the Speaker relating to allowances and insurance, to the House of Commons Members Estimate Committee.

The House agreed a new Standing Order which set the terms of reference of the Committee, stipulated that its membership should be the same as that of the House of Commons Commission, and required it to report to the House at least once a year. The new Standing Order<sup>5</sup> was agreed without a division.<sup>6</sup>

In a press notice on 21 October 2004, Sir Archy Kirkwood, speaking on behalf of the House of Commons Commission, said that the release of summaries of expenditure on allowances was a "significant step towards openness and accountability and I welcome it. It's the first time that we have ever published so much information. The tax payer can really see how their money is being spent".<sup>7</sup>

The information released in 2004 covered the financial years from 2001/2 and was released under 9 categories: Additional Cost Allowance (ACA), London Supplement, Incidental Expenses Provision, Staffing Allowance, Members' Travel, Members' Staff Travel, Centrally Purchased Stationery, Centrally Provided Computer Equipment and Other Costs. The Speaker wrote to MPs in December 2002 and June 2003 in connection with the publication of annual totals for each of the different allowances. The first letter of December 2002 reminded MPs that it would meet the House's obligations under FoI.<sup>8</sup>

## 3 Allowances decisions from Information Commissioner and Information Tribunal

Since 2005, there have been a number of FoI requests to the House of Commons for a more detailed breakdown of allowances information. The House of Commons authorities decided to appeal against these requests to the Information Commissioner and then the Information Tribunal. The Clerk of the House is the corporate officer under the *Parliamentary Corporate Bodies Act 1992* and so the person named in legal actions.

The Information Tribunal issued a decision on two applications for information on travel allowances on 16 January 2007. One of the appellants was Norman Baker MP, the other was the *Sunday Times*. The Tribunal found in favour of disclosure:

93. Having considered all these interests we find that the legitimate interests of members of the public outweigh the prejudice to the rights, freedoms and legitimate interests of MPs. We consider our decision will 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 coming to this decision we have noted that the Scottish Parliament has for some years disclosed the detailed travel claims of MSPs supporting mileage, air travel, car hire and taxis. Also we note that in the Scottish Information Commissioner's Decision 033/2005 in *Paul Hutchison, The Sunday Herald and the*

<sup>5</sup> HC Deb 29 January 2004 c406; Standing Order No. 152D

<sup>6</sup> HC Deb 29 January 2004 c418. More details of the debate are given in RP 05/42, section III.A.1

<sup>7</sup> 'MPs publish their expenses and allowances' 21 October 2004 Department of Finance and Administration Press Notice

<sup>8</sup> See para 44 of Information Tribunal Decision Notice 26 February 2008 EA/2007/1060,

0061,0062,0063,0122,0123,0131  
<http://www.informationtribunal.gov.uk/Documents/decisions/HOCfinaldecisionwebsite260208.pdf>

<sup>1</sup> The certificate is referred to in a Information Commissioner Decision Notice FS50073128: *Heather Brooke vs House of Commons*

<sup>2</sup> *Advice for Members' Offices: Data Protection Act 1998*

<sup>3</sup> <http://dfaweb.parliament.uk/members/publications/membersguide.pdf> inside front cover

<sup>4</sup> For full analysis, see Library Research Paper 07/18 *The Freedom of Information (Amendment) Bill 2006-7*

<sup>5</sup> [http://www.parliament.uk/about\\_commons/house\\_of\\_commons\\_commission\\_commission\\_cfm](http://www.parliament.uk/about_commons/house_of_commons_commission_commission_cfm)

Scottish Parliamentary Corporate Body (SPCB) the Scottish Commissioner went further and ordered the release of the destination points of taxi journeys of an MSP.

The full text of the Information Tribunal decision may be found on the website.<sup>9</sup> The Commons complied with the decision, releasing details of Members' travel allowances from 2001-2 on 16 February 2007.<sup>10</sup> It also complied with another Information Tribunal decision relating to the release of travel expenses of an individual Member.<sup>11</sup>

On 30 November 2007 the *Mail on Sunday* newspaper filed requests for information from the House of Commons under the *Freedom of Information Act 2000* in respect of certain expenditure, including the cost of taxis, by Mr Speaker and his wife from 2004-05 to the date of the request. The newspaper was given its answer on 13 December 2007 and the information was posted on the Commons website.<sup>12</sup> Subsequently, a complaint was made to the Parliamentary Commissioner for Standards, which was investigated and dismissed, the Commissioner having found no evidence to support the complaint.<sup>13</sup>

On 28 January 2008, the Committee on Standards and Privileges published a report on *The Conduct of Mr Derek Conway*, in which it reviewed the use that Mr Conway had made of the Staffing Allowance, following a review by the Standards Commissioner. It concluded that Mr Conway had misused the Staffing Allowance.<sup>14</sup> The report received intensive media and public attention and the Members' Estimate Committee subsequently began a 'root and branch review' of the Members' allowance system, which is due to report in the summer 2008. Further information on the response from the Commons and political parties is given in Library Research Paper 08/31 *Parliamentary pay, allowances and pensions*.

On 7 and 8 February 2008 the Information Tribunal considered three appeals in relation to the Additional Costs Allowance in respect of a number of MPs. It ruled that details of items claimed under the Additional Costs Allowance should be released. It considered the original Decision Notice issued by the Information Commissioner insufficient in the public interest in order to meet the specific requests made. This had required a breakdown by reference to 12 categories of expense set out in the 2005 and 2006 Green Books issued by the Department of Finance and Administration. The Tribunal noted as follows:

82...The appropriate disposal of these appeals, in conformity with DPA Schedule 2 condition 6, involves that full detailed disclosure both of the information on the ACA forms and of the information on the supporting documentation should form the starting point, from which certain limited exceptions must be carved out in order to guard against disproportionate intrusion. We acknowledge that this will result in a significant degree of intrusion into private life, and that not every required redaction will be straightforward. But the ACA system is so deeply flawed, the shortfall in accountability so substantial, and the necessity of full disclosure so convincingly established, that only the most pressing privacy needs should in our view be permitted to prevail.<sup>15</sup>

<sup>9</sup> [http://www.informationtribunal.gov.uk/Documents/decisions/corppficer\\_house\\_of\\_commons\\_v\\_infocomm.pdf](http://www.informationtribunal.gov.uk/Documents/decisions/corppficer_house_of_commons_v_infocomm.pdf)  
Details are given on the Commons website at

<sup>10</sup> [http://www.parliament.uk/site\\_information/allowances.cfm](http://www.parliament.uk/site_information/allowances.cfm)

<sup>11</sup> Tribunals Service Information Tribunal, EA2006/0074, 0075, 0076.

<sup>12</sup> <http://www.informationtribunal.gov.uk/Documents/decisions/HOCfinaldecision08071.pdf>

<sup>13</sup> Committee on Standards and Privileges, *Conduct of Mr Speaker*, 14 May 2008, HC 559 2007-8, Appendix, para 2

<sup>14</sup> *Ibid*

<sup>15</sup> Committee on Standards and Privileges, *Conduct of Mr Derek Conway*, 28 January 2008, HC 280 2007-08  
Tribunals Service Information Tribunal, EA2007/0060, 0061, 0062, 0063, 0122, 0123, 0131,  
<http://www.informationtribunal.gov.uk/Documents/decisions/HOCfinaldecisionweb260208.pdf>

The Tribunal decision therefore required the full release of individual items in relation to ACA, subject to very limited exceptions in relation to security and third parties.

On 25 March 2008, Nick Harvey, on behalf of the House of Commons Commission, outlined the Members Estimate Committee's response to the Information Tribunal's decision:

The Members Estimate Committee is concerned that the Information Tribunal (in its decision of 26 February ... misdirected itself in law in deciding that home addresses of Members of Parliament should always be published subject only to limited exceptions. The House will therefore appeal. A second ground will be that the Information Tribunal paid insufficient attention to the reasonable expectations of Members about disclosure of personal information in the statutory publication scheme. The MEC remains committed to reviewing the allowance system and ensuring that there is probity and transparency.<sup>16</sup>

On 3 April Mr Harvey gave further details about the information which would be released following both the Tribunal decision and separate Information Commissioner Decision Notices:

**Mr. Carmichael:** To ask the hon. Member for North Devon, representing the House of Commons Commission, pursuant to the answer of 26 March 2008, *Official Report*, column 89W, on Freedom of Information to the hon. Member for Aberdeen North, what further steps the Members Estimate Committee plans to take regarding FoI requests for data held by the House. [199136]

**Nick Harvey:** The House has appealed to the High Court against the Information Tribunal decision that full details of the additional costs allowance for 14 Members should be disclosed, on the grounds that the tribunal had misdirected itself in law, in particular in ordering the disclosure of private addresses.

Further decisions by the Information Commissioner now need to be addressed. The Members Estimate Committee has taken the view that two such decisions, which require that the House should disclose less detailed information about the allowances of seven Members should not be appealed. This information will be released to the requesters shortly.

The same principle will also be applied to requests for information on the claims of 14 Members about which the House has appealed to the High Court. Data on these 14 MPs will only be disclosed now to that lesser level of information (by category of expense but not down to receipt level). The appeal relates to more detailed information about addresses and receipts.

The same level of information (i.e. by category—not down to receipt level) will be released about the expenses of all Members in the autumn, for the years 2004-05 to 2007-08. For the future, information compiled on a similar basis will be released quarterly, starting with the information relating to the first quarter of 2008-09 (April to June). This release of information will also begin in the autumn.

The MEC remains committed to reviewing the allowance system and ensuring that there is probity and transparency.<sup>17</sup>

<sup>16</sup> HC Deb 25 March 2008 cc89W-90W

<sup>17</sup> HC Deb 3 April 2008 cc1142W-1143W

The information referred to was released on 3 April 2008. There was considerable media interest in the 'John Lewis' list which was published on 13 March 2008 following an FoI request from the Press Association.<sup>18</sup> The list was referred to by Andrew Walker, Director of Resources (formerly Finance), in his oral evidence to the Tribunal as a list of precedents for spending on household items for second homes under the ACA.

There was a hearing in the High Court on 7 May 2008 and the judgment was released on 16 May 2008. The Court found against the House of Commons and in favour of detailed disclosure. The judgment noted:

We have no doubt that the public interest is at stake. We are not here dealing with idle gossip, or public curiosity about what in truth are trivialities. The expenditure of public money through the payment of MPs' salaries and allowances is a matter of direct and reasonable interest to taxpayers. They are obliged to pay their taxes at whatever level and on whatever basis the legislature may decide, in part at least to fund the legislative process. Their interest is reinforced by the absence of a coherent system for the exercise of control over and the lack of a clear understanding of the arrangements which govern the payment of ACA. Although the relevant rules are made by the House itself, questions whether the payments have in fact been made within the rules, and even when made within them, whether the rules are appropriate in contemporary society, have a wide resonance throughout the body politic. In the end they bear on public confidence in the operation of our democratic system at its very pinnacle, the House of Commons itself. The nature of the legitimate public interest engaged by these applications is obvious.<sup>19</sup>

The Members Estimate Committee decided not to make a further appeal on 19 May 2008 and in answer to a parliamentary question it indicated that information down to receipt level would be made available for all Members in the autumn 2008:

**Mr. Doran:** To ask the hon. Member for North Devon, representing the House of Commons Commission, what further steps the Members Estimate Committee plans to take regarding freedom of information requests for data held by the House. [207226]

**Nick Harvey:** The House has decided not to seek leave to appeal to the Court of Appeal against the judgment of the divisional court of 16 May 2008.

It is planned that the publication scheme announced for the autumn will now include information down to receipt level.<sup>20</sup>

The scale of the release was set out in the following parliamentary answer:

**Dr. Julian Lewis:** To ask the hon. Member for North Devon, representing the House of Commons Commission whether the staff who will be given access to documentation submitted by hon. Members to the Parliamentary authorities to undertake work to redact personal information from information to be published in autumn 2008 will be permanent or temporary staff; what security checks will have been carried out on those staff; and if he will make a statement. [215446]

**Nick Harvey:** Quality assurance and editing will be undertaken by security-cleared permanent staff as will any further revisions after hon. Members have had an opportunity to check their information. However, the House does not itself have the capacity to carry out all the work required. It is therefore planned that the scanning of some 1.3 million documents and first stage redaction to remove details such as addresses, telephone numbers, banking details and account numbers will be undertaken under secure conditions by a contractor familiar with providing services to Government and Parliament whose staff have been security cleared. Arrangements for providing additional staff required by the contractor for this project will be agreed between the contractor and the House authorities. The Parliamentary Security Co-ordinator and the Sergeant at Arms have been consulted, and their approval of the arrangements will be sought before the work goes ahead. Staff of the House will be involved in monitoring the whole process.<sup>21</sup>

The cost of this work was estimated at £950,000.<sup>22</sup> However, at its meeting in June 2008, the Members Estimate Committee noted that "it might not be possible to release all the detailed allowances information on the proposed provisional date of Thursday 23 October":

The Committee concluded that it might not be possible to release all the detailed allowances information on the proposed provisional date of Thursday 23 October. The Committee deferred a decision on when to release high level figures for 2007-08 until a firm publication date for detailed information was established. The Committee agreed that detailed information should be published on the internet, on the basis of a high-level table, linked to copies of redacted claims and receipts. The Committee agreed that the Stationery Office should be employed to scan documents and carry out initial editing work, subject to House staff doing the final editing. The Committee agreed that media handling of the autumn release should be undertaken along the same lines of previous years' releases but that extra resources should be deployed to take account of media interest in the release.

The Committee further agreed that Members should be sent letters informing them of the format and content of the files which would be released in the autumn publication, and of the provisional timetable for publication.<sup>23</sup>

#### 4 Members' addresses

In Business Questions on 22 May 2008, the Leader of the House, Harriet Harman, commented as follows in relation to the release of the addresses:

On the question of freedom of information requests in relation to Members' allowances, following the High Court's decision last Friday I can confirm to the House that there will be no further appeal on the applications for information about the allowances claimed by 14 current and former Members. Tomorrow, information in respect of those 14 will be made public in the terms laid down by the High Court. Information in respect of all other current Members will be given out on a single date in the autumn.

On the question of the home addresses of the 14 Members concerned in this case, the information will be made public, subject to individual consideration of security issues. I should like to tell hon. Members that as far as publishing the

<sup>18</sup> "Commons releases 'John Lewis list' of Members allowances 13 March 2008 *Press Association*

<sup>19</sup> Case No.CO2888/2008 *Corporate Officer of the House of Commons v Information Commissioner, Heather Brooke, Ben Leppman, Jonathan Michael Urgoed-Thornas*, available at <http://www.bailii.org/ew/cases/EWHC/Admin/2008/1084.html>

<sup>20</sup> HC Deb 20 May 2008 c174W

<sup>21</sup> HC Deb 1 July 2008 c741W

<sup>22</sup> HC Deb 30 Jun 2008 c546W

<sup>23</sup> House of Commons Commission, *Formal Minutes*, Monday 23 June 2008, [http://www.parliament.uk/about\\_commons/house\\_of\\_commons\\_commission\\_hcfcfm230608.cfm](http://www.parliament.uk/about_commons/house_of_commons_commission_hcfcfm230608.cfm)

addresses of all Members is concerned, as Leader of the House, I am determined that hon. Members should be able to speak in this House on controversial issues without looking over their shoulders because their home addresses are in the public domain. We are considering further how we can be sure that the money for Members' London homes is properly spent, but we must also ensure that the protection needed for Members to speak out in the House remains.<sup>24</sup>

On 23 May 2008 the Commons released copies of original Additional Cost Allowance (ACA) claims forms and receipts for 14 Members and former Members, including Gordon Brown, Tony Blair and David Cameron. Information provided for Members via the intranet noted that this level of information would be made available for all MPs in the autumn, including expenditure on Communications Allowance, Incidental Expenses Provision, stationery and postage, as well as ACA and lists of IT equipment held. Monthly staffing payments would also be made available as well as full details of Member's travel, but not dates of travel. Full details would be announced at a later date but copies of what will be published will be provided to Members well in advance of publication date.

Harriet Harman responded in Business Questions on 19 June 2008 to concerns raised by Dr Julian Lewis:

**Ms Harman:** The hon. Gentleman's early-day motion has shown two things: that there is great concern across the House and that there is something by way of a consensus. The consensus is that there should be transparency and that we should ensure that the public know that public money is being spent properly, and that there are strict and clear rules. That will be the subject of the Members Estimate Committee's proposals about Members' allowances and reimbursement of expenditure. Although hon. Members want to ensure that the public have confidence in how money is spent, it is absolutely clear that we must have the freedom to debate in this Chamber without having to look over our shoulder. It must not be the case that, because our addresses have been published, we cannot speak freely about something controversial.

In response to the hon. Gentleman's point and his early-day motion, I not only propose that the House should have the opportunity to debate the matter on 3 July, but I shall place a resolution before the House so that hon. Members will have the opportunity to vote for the views expressed in the early-day motion.<sup>25</sup>

On 30 June, the Information Commissioner issued a statement on Members' addresses:

The Information Commissioner has taken full account of Information Tribunal's decision promulgated on 26 February 2008, and the subsequent dismissal of the appeal against that decision by the High Court on 16 May 2008. That case applies directly only to the 14 Members named in the original FoI request. Moreover, both the Tribunal and the High Court accepted that an MP's address could be withheld where there is a specific security reason for keeping the address of his or her main or second home confidential.

Neither that case, nor the Freedom of Information Act, creates any obligation on the House Authorities to disclose the addresses of other Members. Indeed, as a data controller, the House of Commons would risk non-compliance with the Data Protection Act were it to do so - in particular if there had been no prior

consultation with MPs to enable them to express their views and any concerns about such a disclosure.

The Commissioner went on to advise against the general release of Members' addresses.

The Information Commissioner understands that it is the intention of the House Authorities to disclose information about historic expense claims for all MPs at the level of detail specified by the Information Tribunal. However, within this context, he strongly urges caution in relation to disclosure of MPs' home addresses. He suggests that it would be prudent for the House Authorities first to give each MP the opportunity to indicate whether they have a current or prospective security-related concern about disclosure of any address relating to them which is held by the House of Commons. The Commissioner considers that the House Authorities would then be entitled to withhold each address where such a concern is registered.

Given the status of Members of Parliament, their responsibilities and the risks they consequently face, the Commissioner does not consider it would be necessary for the House Authorities to enquire into, or consider, the nature and extent of such a concern. In such cases, which may very well not be exceptional in practice, the Commissioner suggests that the House Authorities should redact each such address before disclosure of any document in which it appears.<sup>26</sup>

One of the motions tabled by the Leader of the House for the debates on Members' pay and allowances on 3 July 2008 set out the view of the Commons in relation to the release of addresses:

That this House asserts that the freedom of Members to speak on any matter without the fear or threat of interference or molestation is essential to the effective conduct of parliamentary proceedings; notes that this freedom has long been recognised to be an integral element of the protection afforded to Members enabling them to participate effectively in parliamentary business, and thus that Members must be able to speak on any matter in parliamentary proceedings without threat of interference or molestation; considers that this would be threatened by publication of Members' home addresses, patterns of travel or other information linked to addresses held by the House authorities revealing details that could threaten their security, and so would prejudice 10 the effective conduct of public affairs; and urges Mr Speaker to take account of these considerations in the discharge of his responsibilities.— *[Ms Harman]*<sup>27</sup>

This motion was passed without a vote. During the debate, Ms Harman set out the reasons for the motion:

To do our job properly, we have to be able to speak freely in this House—without fear or favour. We must be able to say what we believe to be true about controversial issues, without feeling that to do so would put ourselves or our families at risk. If our addresses are published on the House of Commons website, it will inevitably result in some Members being inhibited about what they say in the House. If Members want to publish their own addresses, that is a matter for them, but I advise against it, for the same reason that I believe that

<sup>26</sup> "Disclosure of MPs' home addresses" 30 June 2008 *Information Commissioner's Office* [http://www.ico.gov.uk/uploads/documents/presreleases/2008/ico\\_statements\\_disclosure\\_of\\_mps\\_home\\_addresses\\_300608.pdf](http://www.ico.gov.uk/uploads/documents/presreleases/2008/ico_statements_disclosure_of_mps_home_addresses_300608.pdf)

<sup>27</sup> HC Deb 3 July 2008 c1124

<sup>24</sup> HC Deb 22 May 2008 c399

<sup>25</sup> HC Deb 19 Jun 2008 c1091

it should not be required for the House authorities to put our addresses in the public domain.

Having discussed the matter with the Lord Chancellor and the Law Officers, I can tell the House that the Government intend to introduce a statutory instrument under section 7(3) of the Freedom of Information Act, which will exclude Members' addresses or any material that could lead to the identification of Members' address. We will bring it before Members on the Floor of the House before the House rises for the summer recess.

**Stephen Pound (Ealing, North) (Lab):** For those of us who are slow learners, can my right hon. and learned Friend clarify a point for me? Some of us do not claim for a second home and our only home address is always printed at the start of every election campaign, despite the risk of ne'er-do-wells. Will our home addresses no longer be published or does this apply only to those who claim for a second home?

**Ms Harman:** I am referring to a statutory instrument that would introduce an exclusion from the freedom of information legislation for the information that the House authorities hold on Members. The House authorities hold information about addresses beyond claims of additional costs allowances, because they hold information on destination of travel for Members. All that information about Members' addresses would need to be considered for exclusion.<sup>28</sup>

Section 7(3) of the *Freedom of Information Act 2000* allows the Secretary of State to make an order amending the list of public bodies subject to the legislation by limiting the application of FoI to information of a specified description. At Business Questions on 10 July 2008, Harriet Harman responded to a question from Julian Lewis by announcing that the debate on the SI was imminent:

**Ms Harman:**... We will bring forward a statutory instrument under the Freedom of Information Act 2000 that will provide that the House authorities are not required to disclose Members' addresses or any information that could lead to the identification of their addresses. That statutory instrument will be restricted to the House authorities. The hon. Gentleman also raised an important point about the publication of addresses in respect of nomination, standing for election and electoral registration, which is a separate issue, but one that we need to look at, too.<sup>29</sup>

The draft *Freedom of Information (Parliament and National Assembly for Wales) Order 2008* was debated in the Commons on 17 July and passed without a division.<sup>30</sup> Harriet Harman noted that it had four components:

First, it excludes from disclosure under the Act the residential addresses of any Member, by which I mean any address registered to an hon. Member, not just addresses in respect of which there has been an additional costs allowance claim. Secondly, it excludes from disclosure under the Act information about the regular or forthcoming travel arrangements of any Member in order to prevent the profiling of travel undertaken by any hon. Member.

**Sir Robert Smith (West Aberdeenshire and Kincardine) (LD):** The explanatory notes say:

"except as to the total amount of expenditure incurred on travel during any month".

Will that be broken down by mode of travel—mileage, train or aircraft—as it is at the moment?

**Ms Harman:** As the hon. Gentleman suggests, the information will be given monthly. It will not be excluded from the scope of the Act, and it will be given in the categories that he describes. The House will still be obliged to publish individual MPs' travel expenses on a monthly basis, but it will not be broken down any further than that, as further detail might risk the identification of travel patterns week by week, thereby prejudicing security.

Thirdly, the order excludes from disclosure under the Act information that would enable the identification of any person who has delivered goods or provided services to a Member at any residence belonging to the Member; again, that is because it could lead to the identification of the address. Fourthly, it excludes from disclosure under the Act information relating to expenditure by a Member on security arrangements. We do not want a list that sets out who spends on security such as burglar alarms and thus, by a process of elimination, which Members do not have any security.

**Mr. Michael Ancram (Devizes) (Con):** Presumably this applies only where a Member of Parliament has not in one way or another made his or her address public. During elections, we tend to put our addresses on the ballot papers. I assume that when that happens, even though we are not Members of Parliament at the time, the information is regarded as being in the public domain and these provisions would not apply to it.

**Ms Harman:** The statutory instrument restricts the scope of the Act, which places an obligation on the House authorities to disclose information. It does not apply to anything that an hon. Member might want to do in the future or might have done in the past. It simply provides the rules that the House authorities will have to comply with in respect of what they do. They will not have to say to themselves, "Has this particular Member put his or her address in the public domain? Yes, they have, so I'll put his or her address up on the website." They will know that it is a category of information that comes within the scope of the restrictions and that they therefore do not disclose it.<sup>31</sup>

The draft Order was passed without amendment. The text is available on the Commons Leader website, together with the *Explanatory Notes*.<sup>32</sup> It appears to be the first time that the powers under section 7(3) of the 2000 have been used. The Order included the National Assembly for Wales, but there was no discussion of the implications for the Assembly in the Commons debates.

## 5 The draft *Freedom of Information (Parliament) Order 2009*

As a result of the High Court judgement in 2008 noted above, the full details of the allowances of the 14 MPs who were the subject of court action have already been made available. The High Court judgement was concerned only with a specific FoI request for the details of these MPs and so did not require the Commons to release similar details for all Members. However, if the same type of information had been requested for other Members, release of the same level of detail would have been necessary. As the House of Commons, not Members, is the holder of the information, it is for the House to decide in what form the information is released. The Members Estimate Committee decided that the information relating to all Members would be released at the same time, given that section 22 of the FoI

<sup>28</sup> HC Deb 3 July 2008 c1103

<sup>29</sup> HC Deb 10 July 2008 c1572

<sup>30</sup> HC Deb 17 July 2008 c455

<sup>31</sup> HC Deb 17 July 2008 c 448

<sup>32</sup> <http://www.commonshouse.gov.uk/files/pdf/FoI%20SI.pdf>