

DATA PROTECTION AND THE PUBLICATION OF PERSONAL DETAILS ON REPRESENTATIONS

1. The Commission is invited to consider and agree its policy on Data Protection and, in particular, the treatment of personal details received during its public consultations. This paper has been prepared by the Secretariat, having taken advice on the issues from the Commission's legal advisors at the Treasury Solicitor's Department.

2. The Data Protection Act 1998 (DPA) imposes an obligation upon the Commission (as a public authority) that, among other things, 'personal data shall be processed fairly and lawfully'. The Commission's Secretariat has identified four types of personal data held or collected during the course of a review, and this paper outlines that data and the treatment of the data held. **The Commission is invited to agree the approach outlined in paragraphs 5 – 7.**

3. In particular, the Secretariat has also considered further the issue of the treatment of personal data contained in representations received during the consultation periods. Following legal advice, the Secretariat invites the Commission to consider the options outlined regarding personal data, and **confirm the approach it intends to take, outlined in paragraphs 8 – 20.** Appendix A provides example representations, displaying the Secretariat's proposed approach to the redaction of personal details.

4. It should be noted that the policies proposed in this paper apply only to matters relating to the Commission's obligations in the conduct of the review; data protection matters relating to issues such as employment, recruitment and staffing are covered by the policies of the Commission's sponsoring body, the Cabinet Office.

Data held by the Commission

5. The Commission has identified four types of personal information that it does, or will, hold during the course of a review of parliamentary constituencies:

- a. electoral registers;
- b. names, addresses and other contact details of respondents to the consultations, or who contributed at public hearings;
- c. names, addresses and other contact details of people on (or requesting to be on) the Commission's mailing lists; and
- d. names, addresses and other contact details of people wishing to attend a public hearing, collected during the organisation of the hearings.

6. In relation to a), the Commission is entitled under the Representation of the People Act 2000 to hold electoral registers for the conduct of its work. They are kept in electronic format only on its secure network. The registers will never be released to a third party.

7. In relation to c) and d), these details are held in electronic format on the Commission's secure network, and are used only for the purposes of mailing information to those who have made enquiries to the Commission. The personal information will never be released to a third party (notwithstanding any decision taken on the release of addresses or address identifiers referred to below).

Representations

8. The question of whether to redact personal information contained within representations and, if so, how much, was considered by members at their meeting on 4 April 2011. At the time, the Commission agreed that it was minded to publish the full name and address of the respondent, though it took no view on other data such as signatures, or telephone and email details.

9. The Secretariat has since considered the various options open to the Commission in regard to the treatment of personal data contained in representations, and has taken into account the legal advice provided on the issue. The Commission will wish to ensure that it has given full and due consideration to the issue, and that, in line with the obligations put upon it by the DPA, it processes data in a fair and lawful way.

10. With that in mind, the Secretariat has considered the options for the treatment of data received during representations, bearing in mind the Commission's obligation under the 1986 Act to publish representations on the initial proposals, and its commitment to publish representations received during the other consultation periods. The Secretariat anticipates that there would typically be up to five different pieces of personal data received in a representation:

- a. Name
- b. Signature
- c. Address
- d. Telephone number
- e. Email address

11. In order to adhere to its obligations under the DPA, and also to avoid discouraging participation in the review by publishing personal contact details, the Secretariat recommends that some elements of the personal data in some representations are redacted. In considering the proposals to redact certain data, the Secretariat has balanced the Commission's obligations under the DPA against both the need to publish copies of representations on the initial proposals (under the 1986 Act) and its commitment to the transparency of what is a public consultation.

12. In addition, the Secretariat has considered the type of respondent, and invites the Commission to agree that, in some cases, it is not necessary, or in the public interest, to redact personal data (except signatures, which will be redacted from every document), such as when a representation is received from an elected member or on behalf of an organisation. The Secretariat considers that representations from MPs should only ever have signatures redacted; those from peers, councils, councillors or other elected members, or local, public or private organisations should only have signatures redacted *unless they specify they are writing in a personal capacity*, in which case they will be treated as members of the public. Appendix A shows example representations, displaying the recommended approach to redaction of personal details.

13. In summary, the Secretariat recommends that:

- names are not redacted from any representation (notwithstanding exceptional requests referred to in paragraph 24);
- signatures are redacted from every representation;
- telephone and email details will be redacted from representations from members of the general public (or others writing in a private capacity).

14. The Commission is invited to agree to these recommendations.

Policy on redaction of addresses

15. The Secretariat invites the Commission to finalise its policy on the redaction or otherwise of addresses of members of the general public. On the one hand, members have so far taken the view that the origin of representations received might potentially be relevant to assessing the weight to be given to them – suggesting that addresses should not be redacted. The Commission’s legal advisors have suggested that this approach would not be typical of public sector organisations, and the risk of challenge in taking this course would need to be mitigated against by clear communication of what data would be published and when, through the Commission’s Data Protection and Privacy Statement (discussed later, in paragraph 27).

16. On the other hand, the Commission could redact fully the addresses from representations from members of the public. While this would mean that the geographic location of the respondent could not be identified, it would minimise the risk of challenge on the basis that the Commission was not processing personal data fairly and lawfully.

17. A compromise approach might be to redact the main identifiers of the address, (i.e. house number, street name, and last three digits of the postcode). While protecting the exact geographic identifying data contained in the representation, this would allow respondents to the secondary period of consultation to see where initial responses have come from.

18. By comparison, the intentions among the three Commissions for the other parts of the U.K. are mixed. BCS redacts all personal data except names from individual representations, but publishes all data from ‘organisations’, and BCNI expects to take the same approach. BCW currently intends to redact all personal information from every representation.

19. Appendix A shows example representations, and the Commission’s approach to the redaction of data within them. The three options in relation to addresses of members of the public are shown in parts C1, C2 and C3 of the appendix, and are summarised as:

- not redact any part (option C1);
- redact specific geographic identifiers such as first line of address and last three digit of postcode (option C2);
- redact in full (option C3).

20. The Secretariat recommends that the Commission agrees to option C1 (not redact any part of the address). The Secretariat considers that Commission will have given reasonable consideration to whether the treatment of address data is fair and lawful, and will take all reasonable steps to inform respondents of its policy on addresses (see paragraph 28).

Special cases

21. The Secretariat has considered potential requests for special treatment in relation to representations; for example, for non-publication, anonymity, or in the case of offensive, defamatory or potentially libellous material.

22. In identifying an approach to requests for non-publication of representations, the Commission will be aware of the obligation placed on it by section 5(4)(a) of the 1986 Act:

‘After the end of the initial consultation period the Commission-

(a) shall publish, in a manner as they think fit, representations made as mentioned in subsection (1)(a) above and records of public hearings held under subsection (1)(b) above;’...

23. In this regard, the Secretariat recommends that the Commission’s policy on representations that include a request not to be published is to disregard the representation, given the duty put on it by the 1986 Act to publish all representations.

24. Where anonymity is requested the Secretariat recommends that the Commission takes the view that strong justification will be needed for the request to be granted. The Secretary to the Commission will consider the request and make a judgement, but retains the right to publish the name of the respondent.

25. In cases where representations contain material that is judged to be offensive, defamatory or libellous, our intention is that the Secretary retains the discretion *not to accept*, and hence not publish (nor consult on) any such representations.

26. The Commission’s legal advisor concurs with the above proposed approaches.

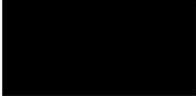
Implementation and communication of the policy

27. Subject to the Commission’s views on the Secretariat’s proposals in this paper, the Secretariat intends to draft and publish a ‘Data Protection and Privacy Statement’ which will reflect the Commission’s decisions. This will be cleared by the Secretary, and published on the Commission’s website.

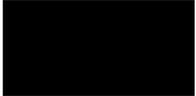
28. In addition, appropriate steps will be taken before and during the consultation periods to make respondents (and potential respondents) aware of the Commission’s approach to data contained in the representations, including in the information booklet, on publicity material, on the consultation pages of the Commission’s website, and in acknowledgement letters/emails sent to respondents.

Appendix A: Example representations

A: MPs

Boundary Commission for England 35 Great Peter Street London SW1P 3BQ	John Smith MP Houses of Parliament SW1A 0AA
5/5/2011	
Sir/Madam	
I fully support your initial proposals for the London region.	
Yours faithfully	
	
John Smith MP Houses of Parliament Tel: 020 7123 1234 e: jsmith@parliament.uk	

B: Peers, councils, councillors etc

Boundary Commission for England 35 Great Peter Street London SW1P 3BQ	Cllr John Smith 123 Acacia Avenue AB1 2CD
5/5/2011	
Sir/Madam	
I fully support your initial proposals for the London region.	
Yours faithfully	
	
Cllr John Smith 123 Acacia Avenue Tel: 020 7123 1234 e: jsmith@hotmail.com	

C1: Members of the public and others writing in a personal capacity (option1 – recommended)

Boundary Commission for England 35 Great Peter Street London SW1P 3BQ	John Smith 123 Acacia Avenue AB1 2CD
5/5/2011	
Sir/Madam	
I fully support your initial proposals for the London region.	
Yours faithfully	
	
John Smith 123 Acacia Avenue AB1 2CD Tel:  e: 	

C2: Members of the public and others writing in a personal capacity (option 2 – part redaction)

John Smith
[Redacted]
London
AB1 [Redacted]

Boundary Commission for England
35 Great Peter Street
London
SW1P 3BQ

5/5/2011

Sir/Madam

I fully support your initial proposals for the London region.

Yours faithfully
[Redacted]

John Smith
[Redacted]
London
AB1 [Redacted]
Tel: [Redacted]
e: [Redacted]

C3: Members of the public and others writing in a personal capacity (option 3 – full redaction)

John Smith
[Redacted]
[Redacted]

Boundary Commission for England
35 Great Peter Street
London
SW1P 3BQ

5/5/2011

Sir/Madam

I fully support your initial proposals for the London region.

Yours faithfully
[Redacted]

John Smith
[Redacted]
[Redacted]
Tel: [Redacted]
e: [Redacted]