

Common Purpose, 28-42 Banner Street, London, EC1Y 8QE  
tel: 0207 608 8124 fax: 0207 336 6844 email: [Julia.middleton@commonpurpose.org.uk](mailto:Julia.middleton@commonpurpose.org.uk)  
[www.commonpurpose.org.uk](http://www.commonpurpose.org.uk)



23<sup>rd</sup> October 2009

Victoria Byrne  
Casework and Advice Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**SCANNING**

**27 OCT 2009**

Dear Ms Byrne

Thank you for your two letters of the 22 September 2009: one referenced RFA [REDACTED] and one referenced with the names and addresses or contact details of five individuals whom we understand have submitted complaints to you alleging breaches of the Data Protection Act by Common Purpose.

We understand that you are treating all the complaints listed as requests for assessment under Section 42 of the Data Protection Act (DPA) 1998.

In making that assessment, I thought it would be helpful for us to supply you with all relevant background information and address each of the alleged breaches.

1. *Common Purpose compiled a list of the names and addresses of individuals who had submitted FOI requests to public authorities. It then provided this list to other public authorities to demonstrate its view that such requests were vexatious. In doing so, it allegedly unfairly processed information and may have breached the DPA.*

Our response:

- In July 2006, Common Purpose became aware that public bodies were receiving an increasing number of FOI requests about their dealings and expenditure with our organisation
- We identified a pattern and style to the FOI requests being sent to the public bodies – that appeared to be submitted by the same small number of individuals on an increasingly frequent basis
- We suspected that these individuals might be abusing the Freedom of Information Act (FOIA) to submit vexatious requests to public bodies as part of a wider and very public attack against Common Purpose
- We contacted Richard Thomas, Information Commissioner, on 25 February 2008 to seek his advice and he put us in touch with Jed Tracy of the Information Commissioner's office.
- Mr Tracy told Common Purpose's then marketing director Joanna Thorpe that a public authority could only decide if a request was vexatious if it could clearly demonstrate this was the case

Cont/...

Ms Byrne  
23<sup>rd</sup> October 2009

- Mr Tracy suggested we should keep a list of the details of requests and those individuals making them and send this to other public bodies to help them determine if there was evidence of any vexatious use of the Act. We confirmed with our lawyers that this would not put us in breach of the Data Protection Act and in April 2008 we proceeded on this basis
- We were only ever aware of the details of requesters in a very small number of cases. The list has never been distributed widely or on a blanket basis.
- Three public bodies to our certain knowledge have taken the decision that the requests they received were vexatious; Durham Constabulary, North Yorkshire Police and Department for International Development
- We understand that these decisions have never been referred by the requesters to the ICO for a ruling.
- Three of the most prolific individuals on the list we had begun compiling – Messrs [REDACTED] and [REDACTED] – all appear on a number of websites and in the media, publicly stating their use of FOI requests in connection with Common Purpose.
- In June 2008 we were contacted by some public authorities to inform us that their data officers had received complaints about us allegedly breaching the Data Protection Act
- We immediately phoned to seek clarification from the ICO on the previous advice given to us by Mr Tracy and we also sought further independent legal advice as to whether we had breached the Act by acting on this advice
- We had initially included addresses in a misunderstanding of what 'personal details' should be recorded. In August 2008 all addresses were removed and as a precaution we stopped sending out the list in early September 2008.
- We wrote to Charlotte Powell, the ICO's Internal Compliance Manager on 23 February 2009 to give her an update on the number of FOI requests about Common Purpose and that public bodies were receiving complaints from individuals that we had allegedly breached their data protection. Unfortunately we received no response from Ms Powell.
- In August 2009, we asked for and secured a meeting with the ICO, with Mr Clancy, to review the continuing negative attack on Common Purpose and seek further advice on how to act. This was a very helpful and detailed meeting. Mr Clancy also committed to follow up with further advice in writing on how to best deal with the situation, given that throughout the period above, we continued to be subjected to this unpleasant attack. Several websites even contain a template FOI request about Common Purpose as well as 'presenting' the information gathered through the FOI responses. [REDACTED] in particular has lodged over 150 FOI requests about Common Purpose, as stated on [www.whatdotheyknow.com](http://www.whatdotheyknow.com) since 2008. Some public authorities, such as Kent Police, are declining to answer FOI requests about Common Purpose submitted by 'R.Soles' on the grounds that this is an offensive pseudonym and not a genuine contact name.

Given the above, Common Purpose – acting in good faith at all times - did not intentionally breach the Data Protection Act.

We have continually sought - and acted on - the advice and guidance of the ICO, as well as that of our own lawyers. At each and every stage, we have sought to respond legally and responsibly to what we believe is a vexatious use of the FOIA by a small group of individuals, some of whom have freely identified themselves by continuously libeling Common Purpose on the internet and in the media.

Cont/...

Ms Byrne  
23<sup>rd</sup> October 2009

2. 

Our response:


3. Common Purpose should have notified the ICO as a body collecting personal data and been registered with it under the DPA

Our response:

- We have always had a registered Data Controller and I am sure that a close inspection of your records will show this.
- Common Purpose did indeed notify the ICO as required in June 2009 and sent the appropriate payment to cover the cost of renewal.
- We understand from the Notifications Dept that this payment was never taken and appears to have been lost in your system so our renewal had not been processed. We have resent this payment and the details you require.
- We have now organised for payment to be taken by Direct Debit, which we hope will ease the administrative burden on the ICO.

Cont/...

Ms Byrne  
23<sup>rd</sup> October 2009

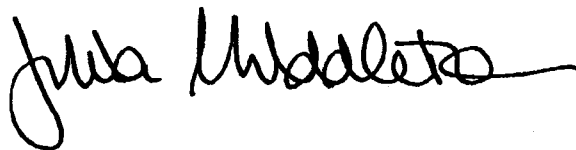
4. [REDACTED]

The ICO will no doubt receive requests to disclose this letter under the FOIA. We respect that this is the decision of the ICO and we would be very grateful if you would contact us before disclosing this letter. Common Purpose has no objection to this letter being released in full; we would request however that if the ICO or the other parties do release it they do so in full and it is not posted in part on the internet and in the media.

It is worth adding that given the helpful, detailed and supportive nature of the meeting with Mr Clancy in August, we were very surprised to receive your letter asking Common Purpose to justify itself, rather than advice on how to deal with this attack. The ICO response was not only inconsistent with the spirit of the meeting, it also showed that there had been little handover on the case.

As outlined above, I believe we have acted in good faith at all times, clearly seeking the advice of the ICO and independent legal advice at every stage - specifically to ensure our compliance as Common Purpose has and continues to be the subject of vexatious use of the Data Protection Act by a small group of individuals.

Yours sincerely



**Julia Middleton**  
Chief Executive

**Direct Line +44 (0)207 608 8124**