



# Local Transparency - Practitioners Guide to Publishing Senior Salary Information

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This consultation document is published by the Local Government Group in collaboration with the Local Public Data Panel.

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## Executive Summary

1. This guidance is intended to assist local authorities in the preparation and publication of senior salary information. It is not intended to be exhaustive, but should provide a frame of reference, covering the key areas to consider.
2. As agreed by the public data panel this document is expected to be revised on an ongoing basis to reflect the experience and feedback of sector practitioners.
3. The key points of the documents are summarised below. For more information on any of the sections please click on the titles which link to the relevant section.
4. The document also contains a number of technical annexes intended to assist practitioners in the preparation and publication of data. These are listed on the [technical annexes](#) page.

### Introduction

5. The Government has a clear commitment to greater transparency of public information. In line with the publication of salary data on other senior public servants, local authorities are expected to publish data on their senior management staff by January 2011. The policy intention is to show:
  - the salaries paid to members of the organisation's senior management; and
  - the extent of the organisation's establishment.

### Timing

6. Councils should have their salary information published by 31st January 2011. Therefore, for the purposes of this exercise, you should provide a snapshot of your council as at 31st October 2010.

### Scope of disclosure

7. The policy intention is to show the salaries paid to members of the organisation's senior management. It is down to local determination as to how councils define their senior management team.
8. It is likely, however, that the senior management identified by a council will correspond closely to those classified as chief executives and chief officers (2nd tier or above) under the Joint Negotiating Committee (JNC) agreement of the same name, although this will vary according to the size and structure of the council.

### Publishing formats

9. We advise authorities to publish data in the following formats:
  - a document in pdf format (easy to read and printer friendly); and
  - a CSV spreadsheet which is machine readable (for easier reuse and analysis).

### Data on individuals

10. Data to be published for each individual includes Organisation Name, Body (organisational identifier), Individual's Name (subject to consent), Job title, Service Area, Full-Time Equivalent, FTE Pay band for disclosure – this will be shown in £5,000 bands (for instance, £80,000-£84,999).
11. Actual and FTE base pay rates can be collected for the purposes of checking accuracy. These should not be published.

## Organisational and contextual information

12. To meet the second part of the policy requirement councils should aim to publish data on the scale of the local authority in terms of
  - Employment;
  - Expenditure; and
  - Service Responsibilities
13. Councils should aim to publish details of the accountabilities and responsibilities of senior roles. In the first instance these should be for the Chief Executive and all 1st tier officers. *It is up to the council to decide what should be provided* but examples of information include:
  - budget responsibility
  - staff under direct or indirect line management responsibility
  - job description and person specification

## Publication

14. Once the data is in the right format, it should be published on your website. You may wish to publish salary data as part of a wider open-data initiative and create a dedicated open-data page/section on the council's website (possibly [www.yourcouncil.gov.uk/opendata](http://www.yourcouncil.gov.uk/opendata)).
15. Wherever you publish the data, it is advisable to give further information about the salary data, and to give contact details in case of any enquiry. This will improve relationships with people using the data, but also reduce the necessity of going down formal routes (e.g. Freedom of Information requests (FOI)).
16. Senior Salary data fall under open public data and should therefore be provided for free reuse, including commercial reuse. However, you may want to provide some information about the ownership of the data and the right for further use which is generally provided in a license or copyright statement. We recommend to use the Open Government license published by The National Archives.

## 1. Introduction

17. Under the section on Government Transparency, the [Coalition Agreement](#) [PDF] pledges:

We will require public bodies to publish online the job titles of every member of staff and the salaries and expenses of senior officials paid more than the lowest salary permissible in Pay Band 1 of the Senior Civil Service pay scale, and organograms that include all positions in those bodies

18. This guide offers help to local authorities in meeting this expectation to help them meet the government's deadline of January 2011. In essence the expectation is that along with all other public bodies, councils will publish:

- salaries paid to the organisation's senior management; and
- the extent of the organisation's establishment: the civil service will publish organogrammes showing senior staff and the staff they manage.

19. Legislation (the Accounts and Audit Regulations (Amendment No. 2) (England) Regulations 2009 (No. 3322)) already requires disclosure of pay information in councils' annual accounts in brackets of £5,000 for certain officers earning more than £50,000 a year. However, this does not completely fulfil the government's commitments.

20. In discussing the commitment with government, we have agreed that local government is more diverse and complex than the civil service. These guidelines are therefore designed to reflect these differences whilst meeting the spirit and intent of the commitment asked of us. They are designed to:

- Be simple and minimize process and cost;
- Help councils meet the January deadline; and
- Provide a consistent sector approach to ensure comparability and quality of data.

21. The guide is not exhaustive, but offers a frame of reference, covering the key areas to consider. As with other elements of this practitioners guide, we invite comment and feedback by 19 October 2010 to [transparency@local.gov.uk](mailto:transparency@local.gov.uk).

## 2. Timing

22. Councils should have their salary information published by 31st January 2011.

23. Therefore, for the purposes of this exercise, you should provide a snapshot of your council as at 31st October 2010. Please note that this is likely to be a one off date and is predominantly decided to easily align with the expected publication date.

24. The publication of senior salary data is not intended to be a one-off exercise. It is expected that future snapshot dates will correspond to the financial year (e.g. 31st March) though further information will be provided on this in due course.

### 3. Scope of disclosure

25. The policy intention is to show the salaries paid to members of the organisation's senior management. It is down to local determination as to how councils define their senior management team.
26. It is likely, however, that the senior management indentified by a council will correspond closely to those classified as chief executives and chief officers (2nd tier or above) under the Joint Negotiating Committee (JNC) agreement of the same name, although this will vary according to the size and structure of the council.
27. The JNC for Chief Officers of Local Authorities Conditions of Service define a chief or deputy chief officers as an officer of a local authority who:
- i) is a chief officer designated by the employing authority as the administrative and executive head
    - either* a) of a separate department
    - or* b) of a particular function or servicewhich in either case is regarded by the authority as important in relation to the total activities of the authority;
  - or
  - ii) is designated by the authority as a recognised deputy to any chief officer covered by 1) above including an officer of deputy status but whose post may carry a different title.
28. Senior management posts are likely to be:
- Head of paid service, reports only to elected mayor or the council executive committee e.g. Chief Executive.
  - 1st tier manager, reporting to the head of paid service e.g. Director, Chief Officer or Strategic Director.
  - 2nd tier manager, reporting to a 1st tier manager e.g. Assistant Director, Head of Service, Deputy Chief Officer.

### 4. Publishing formats

29. Data can be published in many different formats, such as:
- a document in pdf format which is easy to read and printer friendly
  - a spreadsheet which is machine readable. The most common format is CSV
30. The open data initiative is promoting the use of machine readable formats, in this case CSV or xml files. However, we advise authorities to publish the data in both formats: CSV, as machine-readable for easier reuse and analysis, and pdf formats for those customers who want to easily read the data.
31. Microsoft Excel files should be converted to CSV. The CSV file should have precisely one header line with field names exactly as in the example file supplied. Values must be separated by a comma character, with a new line between separating transactions. Text

values that contain a comma must have a “” character at the start and end of the value. This format is the behaviour of Excel when using the “Save As” function, selecting CSV as the file type. There should be no comment lines, no ‘total’ lines and no blank lines.

32. Due to limitations of Microsoft Excel, it is unable to deal with non-Western characters (like Chinese). In cases where you have such payments, an alternative route to creating the CSV files in Unicode format will need to be found. In the interim, councils needing to publish data including non-Western scripts should provide Excel files. Note that ‘£’ signs can also cause problems for the same reason and thus should not be included in the file.

## 5. Data on individuals

33. The following data should be collected for each individual:

- Body
- Body Name
- Name\*
- Job title
- Service Area
- FTE of their minimum contracted hours (as a number, 1.0 = Full Time)
- Base pay rate (actual rate for part-time staff)\*\*
- FTE base pay rate\*\*
- FTE Pay band for disclosure – this will be shown in £5,000 bands (for instance, £80,000-£84,999).

\* **Name** will be disclosed unless an individual does not consent to disclosure.

\*\***Exact base pay rate and FTE base pay rate will not be disclosed.** This information is to aid the individual in verifying that they have been placed in the correct pay band.

All other data is expected to be published.

## 6. Organisational and contextual information

34. Alongside data on senior management salaries, councils should publish information about the levels of responsibility and accountability of the senior management team, both in terms of the scale of the organisation and the specific accountabilities of individual roles. Provision of this additional information will enable users to better understand the scope of management roles (and is an alternative to publishing an overly complex organogram that may confuse users).

35. We recommend that the following data is published on the same webpage as the senior salary data files.

### Organisational Scale

36. This should include data on the scale of the local authority in terms of, at least, the following factors:

- **Employment** - the headcount and Full-Time Equivalent (FTE) of all the council's directly employed staff. This data is already provided to the Office for National Statistics (ONS) as part of the Quarterly Public Sector Employment Survey (QPSES) which councils are required to complete. The Local Government Association access this data from ONS and publish it on their website at <http://www.lga.gov.uk/lga/core/page.do?pagelId=1955843>.
- **Expenditure** - the total Gross Expenditure of the council for the previous financial year. This data corresponds to the expenditure information provided to Communities and Local Government in the Revenue Outturn. This data is not currently published at local authority level but national data is available on the CLG website here: <http://www.communities.gov.uk/documents/statistics/pdf/1622439.pdf>
- **Service Responsibilities** - details of the services provided by your council. This can take the form of a list of the main services provided, although you may like to build upon this by providing further information. For example, instead of just listing Social Care, Education, etc. You may like to provide additional information, like the number of schools, residential care homes, etc within your area.

### Individual Accountability

37. Councils should aim to publish details of the accountabilities and responsibilities of senior roles. In the first instance these should be for the Chief Executive and all 1st tier officers. ***It is up to the council to decide what should be provided*** but examples of information include:
- budget responsibility
  - staff under direct or indirect line management responsibility
  - job description and person specification

## 7. Publication

38. Once the data is in the right format, it should be published on your website. You may wish to publish salary data as part of a wider open-data initiative and create a dedicated open-data page/section on the council's website (possibly [www.yourcouncil.gov.uk/opendata](http://www.yourcouncil.gov.uk/opendata)).
39. Wherever you publish the data, it is advisable to give further information about the salary data, and to give contact details in case of any enquiry. This will improve relationships with people using the data, but also reduce the necessity of going down formal routes (e.g. Freedom of Information requests (FOI)).
40. Aside from publishing the data on the local authority website, local authorities may want to make it more widely known that the data are available. This can be done by sharing or registering the data through:
- Direct.gov.uk
  - The national data portal on [data.gov.uk](http://data.gov.uk)
  - the local open data CoP
  - regional data stores such as the London Datastore and the West Midlands Observatory <http://www.wmro.org/homeTemplate.aspx/Home>
41. You should make sure that you tell individuals of the precise timetable for publication – we suggest you give people around 48 hours notice of the precise date and time of publication.

All media questions should be routed to your Media/Communications team so that they are dealt with appropriately. Decisions on pay levels are for the organisation, and not the individual, to justify.

## **Licensing**

42. Senior Salary data fall under open public data and should therefore be provided for free reuse, including commercial reuse. However, you may want to provide some information about the ownership of the data and the right for further use which is generally provided in a license or copyright statement.
43. We recommend to use the Open Government License published by The National Archive<sup>1</sup>. A guide for information providers is published on the same website<sup>2</sup>. The license replaces the previously used terms and conditions of data.gov.uk.

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<sup>1</sup> <http://www.nationalarchives.gov.uk/doc/open-government-licence>.

<sup>2</sup> <http://www.nationalarchives.gov.uk/information-management/government-licensing/guidance-for-information-providers.htm>.



## Technical annex

44. The following annexes are intended to assist practitioners in the preparation and publication of senior salary data. This page provides a summary and links to each annex.

### [Process for publication](#)

45. This section outlines the basic steps authorities should take in the process of publishing senior salary information. This includes advice about how and when to engage staff and outlines the process for gaining individual consent for publication of Names.

### [Data definitions](#)

46. This sections outlines the definitions and technical specifications for each data item required in the senior salary disclosure. This links to the workforce data standards published separately by the LG Group.

### [Example CSV file format](#)

47. A template of the data fields required in any published CSV file.

### [Sample disclosure letter](#)

48. A sample disclosure letter that councils can use as a template for informing individuals about the publication of data.

### [Relevant ICO guidance](#)

49. A summary of the relevant Information Commissioner's Office (ICO) guidance on publication of public sector salaries. This includes advice on Data Protection and ICO Freedom of Information Decision Notices.

## **Annex 1. Process for publication**

### **Step 1 – Identify people**

50. Identify relevant individuals - all senior managers (as defined by the local authority in reference to the guidance provided in Scope of disclosure) on your payroll at 31st October 2010, other than those on unpaid leave. You should include people on paid leave (including paid sickness absence and paid maternity/paternity/adoption leave). As this is a snapshot at a specified date, you should include anyone employed on 31st October 2010, even if certain people have subsequently left your employment (but you may wish to withhold disclosure in respect of anyone who has died).
51. Some councils will share a senior manager with one or more other councils (e.g. two councils having the same Chief Executive) or will have a shared service agreement in relation to a specific service (e.g. county council providing HR service for one or more districts).
52. In these instances councils should work together to ensure that a) the data related to every senior manager is published on only one site; b) there is supporting narrative to clarify the employment situation; and c) council sites where data is not published should make reference and provide links to the availability of that data elsewhere.

### **Step 2 – Gather data**

53. Pull together data for the relevant individuals, reflecting the position at 31st October 2010. Please refer to the Data on individuals section for guidance on data definitions.
54. We advise that the content of the published data match the format set out in Annex 3. The data must follow the sequence of columns prescribed, and any formats or presentation conventions as set out in Annex 2. Any additional fields that an authority wishes to publish should conform to the general specifications (e.g. quoting values containing commas), and should be added after the fields listed here. Using the format described here helps to further share and analyse data and hopefully also reduce additional requests and FOI questions.

### **Step 3 – Engage individuals**

55. The Government's commitment to publication of senior remuneration information is clear. Guidance produced by the Information Commissioner makes clear that senior public servants should expect a degree of scrutiny of their remuneration.
56. It is important that this exercise has the backing of council leaders and that unequivocal assurances are provided to all senior managers that the council will deal with any unwelcome media (or other) attention resulting from the remuneration disclosure. Individuals must be clear that the disclosure is about them in their work – rather than personal – capacity and it is for the council, and not the individual, to justify the level of remuneration provided.
57. You should write to each member of staff whose data you propose to publish. This communication must be done on an individual basis and can be done electronically or on paper.

58. You should show each member of staff the data that you propose to publish about them (a sample letter is included at Annex 4) and ask them to confirm to you that their data is correct (or provide corrections).
59. You should advise staff that they have the right to object to disclosure of salary and job title information and that, if they do, you will consider their objections carefully on a case by case basis. However, it should be made clear to staff that disclosure will take place except where the council (as the data controller) agrees that disclosure would be inappropriate.
60. Individuals have a right under section 10 of the Data Protection Act 1998 (“DPA”) to prevent processing of their data which is likely to cause substantial damage or distress, which is unwarranted. If an individual provides written arguments that the publication of their information would cause him or another person substantial, unwarranted damage or distress, and the objections are found to be justified, then the publication of that individual’s information should not take place.
61. The DPA does not stipulate what substantial damage or distress is. However, the Information Commissioner’s Office published guidance suggests that in most cases substantial damage would be financial loss or physical harm; and substantial distress would be a level of upset, or emotional or mental pain, that goes beyond annoyance or irritation, strong dislike, or a feeling that the processing is morally abhorrent  
[http://www.ico.gov.uk/for\\_organisations/data\\_protection\\_guide/the\\_rights\\_of\\_individuals/preventing\\_processing\\_likely\\_to\\_cause\\_damage\\_or\\_distress.aspx](http://www.ico.gov.uk/for_organisations/data_protection_guide/the_rights_of_individuals/preventing_processing_likely_to_cause_damage_or_distress.aspx)
62. You should provide staff with details of your proposed timetable for publication and information as to where you will be publishing your information.

#### **Step 4 – Handle objections**

63. You should devise a process for handling objections so that they are dealt with in a consistent manner. You should document your considerations and decisions for reference in the event of a future challenge or inquiry (although you could not necessarily rely on past reasoning in the event of a future FOI request). Guidance from the Information Commissioner’s Office is also attached at Annex 5.
64. You (as the data controller) should inform the individual of your decision, giving your reasons. Where you consider that disclosure should be withheld, then no specific information will be disclosed about the individual – but you will need to state the overall number of people for whom you have agreed to withhold disclosure. If you consider that the balance is in favour of disclosure, then you will proceed accordingly.

#### **Step 5 – Finalise list for publication**

65. Create and populate (where the individuals have agreed or an objection has not been upheld) a CSV file (the “senior management pay dataset”) that corresponds to the template provided in Annex 3 and an accompanying pdf document.
66. Where disclosure is being withheld as a result of individual objections being upheld, no information will be provided in respect of either the individual or the post. As noted above, you will need to provide details of the number of people whose information has been withheld. This should only cover non-disclosure following an objection – not, for instance, non-disclosure as a matter of policy as determined at Step 1 above.

67. Councils may wish to review their data, in particular to ensure that all permissions or exclusions have been properly applied. You should ensure that any review processes are complete before the deadline for publication. Councils need to put in place suitable arrangements should they chose to do this. This is not a requirement.
68. The authority that holds and processes the data is responsible for complying with the Data Protection Act. It is therefore advisable to approve or sign off the data sheet by an officer competent in data protection before it is published.

## Annex 2. Data definitions

69. **Body** - This identifies the local authority to which the data relates, and means that the file is self-describing (i.e. all the information needed is within the file). Authority information should include a unique identifier such as the ONS SNAC code or the coming GSS<sup>3</sup> which uniquely identifies the local authority. Ideally, the code should be represented in form of a unique reference identifier (URI) used in open data standards. URI sets that represents the local authorities are for example the statistics.data.gov.uk set. In the case of UK local authorities, this is of the form of <http://statistics.data.gov.uk/id/local-authority/XXXX> (where XXXX is the [ONS SNAC](#) id for the authority), e.g. Lichfield District Council is <http://statistics.data.gov.uk/id/local-authority/41UD>.
70. Using this code will help to link the senior salary information to other information about the authority. For example, senior management pay may vary depending on the size and complexity of the constituent population. The code will provide that extra ability to link to additional information and make more intelligent use of the expenditure data.
71. You should also add the name of the authority in the **Body Name** field to aid readability.
72. All other data provided should comply with the workforce data standards published at <http://www.lga.gov.uk/lga/core/page.do?pagelid=1095037> following the guidance set out below. Each data item will be provide along a reference code for the data item (e.g. S010) and, where applicable, a domain (e.g. D010).

### Name

73. This should correspond to the Person Full Name (ref: S035) data item published on page 20 of the data standards e.g. Mr. Bob Jones.

### Job Title

74. This should correspond to the Job Title (ref: S410) data item published on page 65 of the data standards e.g. Director of Finance

### Service Area

75. This should correspond to the Service Area (ref: S210, D100) data item published on page 55 and 164 of the data standards.
76. The service area codes correspond to the CIPFA Best Value Accounting Code of Practice (BVACOP) objective service (e.g. adult social care) codes. These codes are mandatory in expenditure returns to central government. These codes describe the various individual services provided by a Council to the community and enables senior management salaries to be grouped according to such individual services.

### Full-Time Equivalent (FTE)

77. This should correspond to the FTE - in week (ref: A300) data item published on page 134 of the data standards.
78. FTE in week is defined as:
- a) Contracted Working Hours divided by Equivalent Full-Time Hours;

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<sup>3</sup> <http://www.ons.gov.uk/about-statistics/geography/products/geog-products-area/index.html>

If the Base Interval is the same for both Contracted Working Hours and Equivalent Full-Time Hours, then the calculation at a) is sufficient. However, if the numerator and denominator have used different Base Intervals, then a further calculation is required. For example, if Contracted Working Hours are on a Monthly Basis, but the Equivalent Full-Time Hours are on a Weekly basis, then

b) the FTE – in week = result of a) (\*12)/(52.14)

### **Base pay rate**

79. This should correspond to the Annual Basic Salary Rate (ref: S515) data item published on page 86 of the data standards.

80. This is the actual annual rate of basic pay that a person receives for a particular post.

81. The basic rate is an amount before deductions for PAYE, National Insurance, pension schemes and voluntary deductions.

82. Any additional pay elements such as responsibility payments, allowances for shift work, overtime, recruitment or retention incentives and any other additional payments should be excluded from the basic rate.

83. The result should be expressed as a fraction to at least two decimal places, e.g. 0.89.

### **FTE base pay rate**

84. This should be the Base pay rate divided by the FTE. This calculation allows for comparisons between full and part-time staff.

85. For example, a member of staff with an FTE of 0.5 and a basic pay rate of £50,000 would have an FTE base pay rate of £100,000.

### **FTE Pay band for disclosure**

86. We recommend using FTE pay bands of £5000 intervals. These should be reported as two separate data items

- FTE pay floor (bottom of £5,000 band, without a '£' symbol or thousands separators or decimal point; this will be a multiple of 5000 e.g. 60000).
- FTE pay ceiling (top of £5,000 band, without a '£' symbol or thousands separators or decimal point; this will be a multiple of 5000, minus 1 e.g. 64999).

87. While it is important to collect Actual base pay rate and FTE base pay rate for the purpose of ensuring accuracy it should be made clear to the individual that only the FTE pay floor and pay ceiling will be published.

### Annex 3. Example CSV file format

Column	Field Name	What Is Required	Reason For Inclusion	Additional Information
1	Body	A unique code to identify an organisation.	To allow the file to be self-describing	The code can be the ONS SNAC code or a Unique reference set (URI). Preferred is a Uniquer reference identifier (URI) used in Linked Data.
2	Body name	Name of the authority	Aids readability for casual reading	
3	Name	Name of the individual	To identify the individual	This should only be disclosed upon agreement by the individual concerned.
4	Job Title	Job Title of the individual	To identify the post that the individual holds	
5	Service Area	Service Area in which the post is located	To identify the service area in which the post is located	These should relate to the Service Area codes set out in the workforce data standards <a href="http://www.lga.gov.uk/lga/core/page.do?pagelId=1095037">http://www.lga.gov.uk/lga/core/page.do?pagelId=1095037</a>
6	FTE of minimum contracted hours	FTE of the minimum contracted hours for the post	To identify the hours worked by the individual	
7	FTE pay floor	The FTE pay floor of	To identify	Bottom of £5,000 band, without a '£' symbol or thousands separators or decimal point; this will be a

		the £5,000 banding	the bottom of the pay band	multiple of 5000 e.g. 60000
8	FTE pay ceiling	The FTE pay ceiling of the £5,000 banding	To identify the top of the pay band	Top of £5,000 band, without a '£' symbol or thousands separators or decimal point; this will be a multiple of 5000 minus 1 e.g. 64999



## Annex 4. Sample disclosure letter

The Government has set out its clear commitment to improved transparency about how it spends public money. This includes details of the size and shape of public bodies and about the remuneration provided to senior public servants. This is consistent with the Information Commissioner's guidance that senior public servants should expect a degree of scrutiny of their remuneration arrangements.

Alongside the disclosure of Senior Civil Servant salary information, councils are expected to publish details of the salaries of all senior management staff.

The salary disclosure will show only the normal FTE salary for each individual. This amount will be shown in £5,000 bands and not as an exact amount. Other payments – such as bonuses – will not be disclosed.

All information being disclosed is about people in the context of their role as a senior public servant, and not in a personal context. In the event that questions are asked about remuneration levels, these are for the council – and not the individual – to answer. We will provide support and give you details of what to do in the event of unwelcome media (or other) attention as a result of the publication of remuneration information.

We propose to include your details in the council-wide publication as you are a member of the council's senior management team. The information that we propose to publish for you is as follows and is intended to reflect the position at [date]. Salary details will be published in £5,000 bands rather than as an exact amount; again this reflects guidance issued by the Information Commissioner.

Name	<i>Bob Jones</i>
Job Title	<i>Director, Corporate Services</i>
FTE	<i>1.0 (Full Time)</i>
Service Area	<i>Central Services</i>
Rate of pay	<i>£85,000 - £89,999</i>

The pay banded figure reflects your annual FTE salary rate of [£86,487]. This figure is provided to you only; as noted above, the departmental disclosure will show salary etc in £5,000 bands.

Individuals have a right under section 10 of the Data Protection Act 1998 ("DPA") to prevent processing of their data which is likely to cause substantial damage or distress, which is unwarranted. If you object to the publication of your salary data, please provide a written objection including arguments why the publication of their information would cause you or another person substantial, unwarranted damage or distress.

We will consider objections carefully on a case-by-case basis consulting legal advisers as appropriate. We will let you know the outcome of our considerations together with our reasons and, if we agree not to publish, we will nevertheless disclose the fact that information has been withheld for a (specified) number of people.

## Annex 5. Relevant ICO guidance

Note prepared by the ICO for the Cabinet office, July 2010.

### Relevant external guidance

The main guidance we have is [public sector salaries: how and when to disclose](#).

The guidance emphasizes the importance of looking at each individual case, but advocates routine disclosure of salary scales. It recommends disclosure only “to the extent necessary to fulfil a legitimate public interest”. One way of doing this would be to disclose salary scales to the nearest £5000. Our position is that senior staff can expect to face more transparency as to their pay than junior staff.

Importantly, our guidance highlights (page 3 para 1B) that the fact that an individual has not been warned that their salary could be disclosed under FOI “will not necessarily be a bar to disclosure” and states: “You should take into account whether salaries for this type of post are generally made public”. A Decision Notice is cited in support of the latter (FS0067416 – fee paid to TV presenter had been decided in confidential negotiations. Therefore despite the seniority of the position, the PA did not have to release this information). It can be argued that if all general civil service salary bands are published there is a reasonable expectation that an individual’s salary will be so published.

Further advice is available in the broader ICO guidance on section 40 FOI: [the exemption for personal information](#). This guidance sets out some important factors (page 8) to consider when weighing the interests of the individual:

Whether the information relates to the individual’s public life

The potential harm or distress that may be caused by the disclosure.

Whether the individual has objected to the disclosure. As above the guidance notes that although such an objection would be a relevant factor, it is not automatically enough to make the disclosure unwarranted or unfair. You must consider all the circumstances of the case.

The reasonable expectations of the individual as to whether their information would be disclosed.

The ICO considers that salary information relates to individuals’ public and private life, it indicates public money they receive for a public role they undertake but is also related to their private life as it reveals an individual’s personal income and personal financial situation. Given this competing position the ICO considers that £5000 band strikes the right balance.

The guidance notes that disclosure of personal information will always involve some intrusion of privacy, but that intrusion will not always be unwarranted. The guidance also specifically covers requests for information about public authority employees (page 12-13). The ICO states that public authorities should ensure that they have a clear policy so that staff know what sort of information they should expect to be routinely disclosed, and what might legitimately be withheld. When a significant change is made staff should be consulted.

When considering the first data protection principle, a disclosure must be fair, lawful and meet at least one the conditions in schedule 2 must be met. The most relevant condition is condition 6: “The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject”. A further guidance note is available on this

is: [applying the exemption for third party personal data: the Tribunal's approach in House of Commons v IC & Leapman, Brooke and Thomas](#). The guidance sets out a three stage test:

- Is there a legitimate public interest in disclosure?
- Is the disclosure necessary for that legitimate public interest?

Is the disclosure nevertheless unwarranted because of an excessive or disproportionate adverse effect on the legitimate interests of the individual(s) concerned?

The ICO would accept that there is a strong legitimate public interest in disclosing detailed information about the salaries senior public sector staff receive and the detailed disclosure is necessary to meet this interest. A £5000 band disclosure ensures the effect is not disproportionate or excessive.

There is also guidance on the [first data protection principle](#) in the ICO's guide to data protection.

It is possible that staff could object to publication of salary information related to them and issue a "section 10 notice" under the Data Protection Act. Details about the rights data subjects have to prevent processing likely to cause damage or distress are set out in the ICO's [data protection guide](#). Each section 10 notice must be considered for any particular circumstances but the clearly the guidance above from the ICO gives a general indication that is unlikely that the ICO would uphold any complaints it received about section 10 notices on £5000 salary band disclosures.

It is also important to note that staff have the right, under the 4<sup>th</sup> data protection principle, that "personal data shall be accurate and, where necessary, kept up to date". There is guidance on this in the [data protection guide](#) as well.

The ICO has also recently responded to the [Independent Parliamentary Standards Authority \(IPSA\) consultation paper on their publication proposals](#). In this scenario the ICO accepts that publication of exact salary details for connected parties is permissible.

## ICO FOI decision notices

ICO has issued a number of decision notices on the issue of salaries in the last 5 years. It is most important to consider decisions in the last 2 years, since the position on £5000 bands was clarified.

[FS50250552](#) DN 24 September 2009 : Request to DfT for exact salaries and bonuses of each Chief Executive of a DfT agency and also of the DfT Permanent Secretary. Some information was publicly available (£5000 salary bands). We agreed in DN that DfT correctly withheld exact salary details and bonuses of individuals under s40(2), mainly because there was insufficient public interest justification for overriding the legitimate interests of the individuals, despite the staff seniority.

[FS5070465](#) DN 17 March 2008 request to the BBC for details of financial agreements for Graham Norton and Malcolm Young (Controller of Continuing Drama). Our DN found details of Mr Norton's agreement were exempt under section 40(2) (reasonable expectation that the BBC would not disclose, in contrast to position for senior salaried employees of BBC). In respect of Mr Young we found that the details of Mr Young's individually negotiated salary agreement was also exempt under s40 (we accepted his legitimate right to privacy would be infringed) but we ordered the BBC to disclose the BBC salary band in which his salary fell (legitimate interests of disclosure outweighed those of Mr Young in respect of the salary band only).

[FS50163927](#) DN 8 January 2008 Request to ICO for job titles and wages of 5 most senior staff members. ICO as a public authority had disclosed job titles and salary bands but withheld exact salary details under section 40(2), on basis that the legitimate public interest in disclosure (transparency etc) was outweighed by the legitimate interests of the data subjects.

### **Information Tribunal decision**

In [EA/2009/0054](#) Gibson v Information Commissioner 22 January 2010, a request was made to a town council for the exact salary and overtime payments made to the Executive Officer of the council. The IT upheld the ICO DN, endorsing the ICO's approach to disclosing salary information: unfair to disclose exact salaries but to disclose a £5000 salary band would be fair (actually £6000 in this case which both the ICO and IT agreed was acceptable).