Ealing
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Ealing Council

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Your ref:	Our ref:	Extension:	Date:
	19-1190	**0208 825 8367**	**17th October 2019**

Dear Eva Blum-Dumontet,

FREEDOM OF INFORMATION ACT 2000 – INTERNAL REVIEW

Thank you for your request for an Internal Review which was received on 19th September 2019.

Your original request was received on 19th July 2019.

We responded on the 16th August 2019 with the following response:

1. **Have you been using the London Counter Fraud Hub? If yes, since when? If you have only trialled the Hub, when and for how long did the trial last?**

   The trial started August 2017 and ended October 2018.

2. **What is the legal basis for processing personal data (under Articles 6 and 9 of the General Data Protection regulation ("GDPR") and of the Data Protection Act 2018 ("DPA")) through the Software (i.e. the analytics part of the Hub) and the Hub and for what purposes is data processed?**

   Article 6 (1) (e) GDPR and S.8 DPA 2018.

   For the performance of a task carried out in the public interest and in the exercise of official authority vested in the controller.

3. **What type of fraud is the London Counter Fraud Hub used for? Is it only used for identifying single occupancy tax discount fraud or is it used for other fraud detection as well? If yes, what type of fraud is used for?**

   Council tax single person discount (SPD), Housing and Business Rates.

4. **What are the sources of the data processed by the London Counter Fraud Hub, including the names and information of third-party data sources?**

   Council data and third-party data sources e.g. Ordnance Survey, Equifax, CIFAS & Halo

5. **What types and categories of data sources are then processed by the Software (i.e. the analytics part of the Hub)?**

   Business rates data
   Commercial permits
   Commercial waste
   Council Tax
   Council Tax Reduction Scheme
   Electoral register
   Housing Benefit
   Housing Tenancy
   Housing Waiting List
   Revenues
   Trading Standards data

6. **With regard to the data processed by the Software and/or the Hub:**

- **6.1. Does the software and/or the Hub process any protected characteristics (under the Equality Act 2010) such as ethnicity, gender, political opinions, age or relationship status?**

  Yes https://www.ealing.gov.uk/info/201045/data_protection/1420/privacy_notice/6

- **6.2. Does the software and or the Hub process any special category personal data (as defined in Article 9 of GDPR) such as racial or ethnic origin, political opinions, religious beliefs?**

  No

7. **Does the Software and/or the Hub process geographical data (except borough), such as ward or postcode?**

   Yes

8. **Is data about children processed by the Software and/or the Hub? If yes, what is the accuracy rate in each small geographical area e.g. postcode or ward?**

   No

9. **Who has access to the Hub and the information provided therein?**

   The participating authorities

10. **What is the role of each of the companies listed as the Hub's Partners on the website, including BAE systems and Equifax, including any correspondence with these companies?**

    They support and/or provide core analytics interfaces/services

11. **With whom is the data generated through the Software shared with, on what basis and what measures are in place, including any data sharing agreements?**

    CIPFA and participating authorities as covered under the Main agreement and Data Processing Agreement.

12. With regard to the automated decision-making process:

12.a. Are claimants advised that an automated decision (e.g. an alert) has been taken about them in line with Article 22 of the GDPR and sub-section 14(4) of the DPA?

Live phase has not been implemented

12.b. How many requests have you received to (i) reconsider the decision and/or (ii) take new decision not based solely on automated processing?

Live phase has not been implemented

12.c. Please provide information as to any "profiling" as (defined in Article 4 (4) of GDPR) by the Software and the Hub and steps taken to comply with GDPR and DPA requirements.

Live phase has not been implemented

13. What data was the model tested on? Was the failure rate determined based on real data from the London boroughs in scope? Was the model trained on data from all boroughs? If not, which boroughs did the data come from?

Historic Council data was used during the Pilot Phase.

Model trained on data provided by the 4 Pilot authorities Camden, Croydon, Ealing and Islington.

14. Has the Software and/or Hub been evaluated to determine if the rate of false positives and false negatives is consistent across different groups of people based on their characteristics as protected by law (for example, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and/or sexual orientation)?

No

15. Was there a Data Protection Impact Assessment done in relation to the Software and the Hub? If so, please provide us with a copy and any related information.

Yes

16. Was there an Equality and Human Rights Impact Assessment done in relation to the Software and the Hub? If so, please provide us with a copy and any related information.

Following completion of an initial equalities impact assessment no adverse impact was identified. However, the equalities impact would continue to be reviewed if the project moved in to the live phase.

17. Could you please share with us documents pertaining to the London Counter Fraud Hub (including but not limited to procurement documents, contracts, instruction and training manuals, promotional documents and resources from the Chartered Institute of Public finance & Accountancy)?

The Council considers that to disclose the information you have requested, at this stage, would prejudice the commercial interests of the parties concerned and this information is therefore exempt from disclosure under section 43 of the Freedom of Information Act.

You have asked for an Internal Review in response to the following questions provided in your response on the 16th August 2019.
The questions you wish for a review are:

Question 2

What is the legal basis for processing personal data (under Articles 6 and 9 of the General Data Protection regulation ("GDPR") and of the Data Protection Act 2018 ("DPA")) through the Software (i.e. the analytics part of the Hub) and the Hub and for what purposes is data processed?

Your review question:
The response specifies the legal basis under GDPR and the DPA 2018 without referring to the Council's underlying legislation/ powers which justify that this is a task carried out in the public interest and in the exercise of official authority. Furthermore, the response does not specify the purposes for processing. Therefore, please provide a complete answer clarifying the legislation and the purposes for processing.

There are a number of underlying powers to which this process relates including the Prevention of Social Housing Fraud Act 2013, the Local Government Act 2003, the Chronically Sick and Disabled Persons Act 1970, the Housing Act 1985 and the Local Government Act 1972.

The purposes have already been identified in response to question 3 above namely the detection of fraud in respect of Council tax single person discount (SPD), Housing and Business Rates.

Question 4
What are the sources of the data processed by the London Counter Fraud Hub, including the names and information of third-party data sources?
Your review question:
The response does not make clear what the data sources are and what information is provided by the different sources. Therefore, please clarify exactly what council data and what data is provided by a full list of third parties, including the third parties mentioned in the response, such as Equifax.

This question has already been fully addressed

Question 6.1
Does the software and/or the Hub process any protected characteristics (under the Equality Act 2010) such as ethnicity, gender, political opinions, age or relationship status?
Question 6.2
Does the software and or the Hub process any special category personal data (as defined in Article 9 of GDPR) such as racial or ethnic origin, political opinions, religious beliefs?
Your review question:
In response to these questions you have referred us to a section of Ealing's Privacy Notice "Who do we share personal data with". We note the erroneous reference in the Privacy Notice to the Data Protection Bill, and assume you mean the GDPR and Data Protection Act 2018. In relation to the London Counter Fraud Hub, the notice then goes on to state "Ealing Council will share your details with the hub in order to protect against fraud", however, no details are provided about what "details" are shared with the hub, including whether and which protected

characteristics or special category data. There is no reference in the Privacy Notice as to any safeguards for the sharing of this data or how those affected are informed about the sharing of this information. Therefore, please provide a complete answer to these RFIs.

The questions as originally submitted were fully answered.
Further information is provided in the Privacy Impact Assessment attached

Question 10

What is the role of each of the companies listed as the Hub's Partners on the website, including BAE systems and Equifax, including any correspondence with these companies?

Your review question:

As noted above, your response simply states that "They support and/or provide core analytics interfaces/services" without providing any detail of roles of the different partners, or any correspondence, which for example, would include any data sharing and/or processing agreements with these companies. Please review this response and confirm whether or not information is held, and if so, provide copies of that information.

This information is not held by the London Borough of Ealing

Question 12 (a/b/c)

With regard to the automated decision-making process:

- **Are claimants advised that an automated decision (e.g. an alert) has been taken about them in line with Article 22 of the GDPR and sub-section 14(4) of the DPA?**
- **How many requests have you received to (i) reconsider the decision and/or (ii) take new decision not based solely on automated processing?**
- **Please provide information as to any "profiling" as (defined in Article 4 (4) of GDPR) by the Software and the Hub and steps taken to comply with GDPR and DPA requirements.**

Your review question:

As noted above, you have responded "Live phase has not been implemented", please can you explain what you mean by this and whether this means that there is no information in relation to these RFIs. Also, please provide further details on when the live phase will be implemented and what procedures have been put in place for the live phase. As part of this please clarify what this means for the trail period between August 2017 and October 2018.

"Live Phase" means the Hub has not been implemented and therefore there is no information to provide. The trial period involved testing of the processes and procedures between the two parties (CIPFA and the Pilot Authorities).

Question 13

What data was the model tested on?
Was the failure rate determined based on real data from the London boroughs in scope?
Was the model trained on data from all boroughs?
If not, which boroughs did the data come from?

Your review question:

Your response states "Historic council data" without providing any details of what is meant by this. Please clarify. No, response is provided in relation to the failure rate, please confirm whether or not information is held in this regard and provide any information.

Historical council data used in the trial period would have included the following: Business rates data, Commercial permits, Commercial waste, Council Tax, Council Tax Reduction Scheme, Electoral register, Housing Benefit, Housing Tenancy, Housing Waiting List, Revenues and Trading Standards.

Question 15

Was there a Data Protection Impact Assessment done in relation to the Software and the Hub? If so, please provide us with a copy and any related information.

Your review question:

You have confirmed that a Data Protection Impact Assessment was carried out but have not provided us with a copy or related information, please provide us with the requested information/ documents.

Please find attached

Question 16

Was there an Equality and Human Rights Impact Assessment done in relation to the Software and the Hub?

If so, please provide us with a copy and any related information.

Your review question:

You have confirmed that an initial equalities impact assessment was carried out but have not provided us with a copy or related information, please provide us with the requested information.

The London Counter Fraud Hub will continue to review the document when the project moves into the live phase

Please find attached a copy of the current assessment.

Question 17

Could you please share with us documents pertaining to the London Counter Fraud Hub (including but not limited to procurement documents, contracts, instruction and training manuals, promotional documents and resources from the Chartered Institute of Public finance & Accountancy)?

Your review question:

You have responded that the Council considers that disclosure of this information "would prejudice the commercial interests of the parties concerned and therefore this information and this information is therefore exempt from disclosure under section 43 of [FOIA]."

We request that you review the application of this exemption and your response in this regard.

Please consider the following in your review.

The response does not provide sufficient detail as to why the Council considers that the exemption applies in accordance with the requirements of section 17 of FOIA and as you have not confirmed which documents are held and it is not clear which specific parts of this RFI section 43 is being applied.

The response provides no detail as to the Council's consideration of the "prejudice" that would be caused. Under FOIA you should identify any negative consequences of the disclosure.

Such consequences must be significant, you must be able to show a link between the disclosure and the negative consequences and there must be at least a real possibility of the negative consequences happening.

Furthermore, Section 43 of FOIA is a qualified as opposed to an absolute exemption and therefore requires a public interest test to be carried out.

The exemption can only be maintained if the public interest in doing so outweighs the public interest in disclosure.
In this regard, we underline the importance of openness and transparency of public authorities, as well as accountability and the importance of the public being better able to scrutinise the spending of public funds as well the Council's respect for individuals' rights.

The exemption that was applied to our previous request (Section 43) was incorrectly applied to this question.

Please find the below information in response to this question.

The project has been adopted by London Councils as part of its London Ventures programme, which is overseen by the Capital Ambition Board.
The funding for the project came from a grant awarded to Ealing Council by the Department for Communities and Local Government.

- The procurement for this service was put out to tender and the contract awarded to Chartered Institute of Public Finance & Accountancy.
- Details regarding the contract can be found via: https://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:343225-2015:TEXT:EN:HTML
- As the service has yet to go live, we are unable to provide any promotional material as this is in draft phase and will be intended for future publication.
- Further information regarding the London Counter Fraud Hub can be found via the Chartered Institute of Public Finance & Accountancy website at:
  https://www.cipfa.org/london-counter-fraud-hub
  or emailing lcfhenquiries@cipfa.org
- There have been no training manuals produced at present for the London Counter Fraud Hub.

The pilot of the London Counter Fraud Hub went live in June 2017.

As of the current date, no date has been set for the service to go fully live.

I hope this sufficiently answers your request and I apologise that the information was not provided to you in response to your request. If you remain dissatisfied by the outcome of the Internal Review you have the right to submit your complaint to the Information Commissioner at:

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

Yours sincerely,

Lorraine Cox
Corporate Information Governance Manager