

**Department/Organisation: Government Property Agency (“GPA”)
Case concluded in: August 2015**

GPA refused Mr A’s request for the full investigation report regarding a noise nuisance complaint prepared by a property management company (“the Company”) engaged by GPA

The Event

The Company was engaged by GPA to manage the building in which Mr A resided. Mr A requested GPA to provide him with the full investigation report regarding a noise nuisance complaint prepared by the Company. GPA took the view that the Company and its staff could be regarded as “third parties” in the context of the Code on Access to Information (“the Code”). As the Company had refused to consent to the release of the requested information, GPA cited paragraph 2.14 of the Code, i.e. “third party” information and lack of “third party” consent, to refuse Mr A’s request for information.

Our Findings

Having considered legal advice, we found GPA’s decision unjustified because:

- The Company was in fact a contractor carrying out the function of GPA under a contract which allowed GPA to retain extensive control over the manner the management responsibility was discharged. In respect of the resolution of Tenant/Resident complaints under the contract, the Company was nothing more than an agent or a delegate of GPA and could not be regarded as a “third party”.
- The contract between GPA and the Company provided that “the Government shall not owe any obligation of confidence to the contractor under and in relation to the contract”. Non-disclosure of the requested information could not be justified on the ground that the information concerned was “under an explicit or implicit understanding that it would not be further disclosed”.

Outcome

Eventually, GPA agreed to release the requested information to Mr A except information that concerned the privacy of another tenant.