



**FOI Reference: 676/2009**

**Request:**

Under the Freedom of Information Act, please may I request the following information:

In November 2008 the membership list of the British National Party (BNP) was published online. On September 1, 2009 a disgruntled former official Matt Single was convicted in relation to this for this for offences under the Data protection Act.

I refer to Schedule 1 of the Data Protection Principles.

Under Schedule 1, any use of 'sensitive personal data' must be processed only when at least one of the conditions in Schedule 2 is met, and at least one of the conditions in Schedule 3 is also met.

1. Please tell me if Dyfed Powys Police has processed any data relating to the leaked British National Party membership list.
2. Please tell me which of the conditions in Schedule 2 and Schedule 3 were met when processing sensitive personal data.
3. Has the sensitive personal data been used for any purposes other than comparing against the Dyfed Powys Police personnel database?
4. Who was responsible for the decision to compare sensitive personal data against Dyfed Powys Police's personnel data?
5. What were the grounds for such a decision?
6. I request the minutes of any meeting held to come to such a decision.
7. Please describe the process used in making such a decision and whether the consequences of this decision, if any, were assessed.

**Response 1:**

Dyfed Powys Police can neither confirm nor deny that it holds any information in relation to investigations it may have or have not conducted, which have not subsequently been placed in the public domain. Not only would this undermine any current investigation by alerting those who are suspected of criminal activity, but it may also thwart any such investigation which is being managed as a covert operation. This in itself would disclose our tactical options, undermining

future operations, but also in this case potentially disclose personal data of an individual. This is because the list to which you refer contained the names of individuals. To confirm, or deny that certain action may or may not have been taken will reveal whether an individual named was suspected of being employed by the force. This may not in fact mean they are a member of the BNP but in fact do no more than simply confirm that we have a member of staff with the same name as one that appears on the list.

Before refusing to comply with the provisions of S1(1)(a) of the Freedom of Information Act, the force also has to analyse any public interest factors in neither confirming nor denying that information is or is not held if any of the exemptions cited are qualified in nature. Both S30 and S31 are, so the following public interest factors are relevant.

### S30 Investigations

#### *Favouring confirmation or denial:*

Confirming the existence of information would show that Dyfed Powys Police conducted an investigation, which the public would expect.

#### *Against confirmation or denial:*

An investigation if unknown could be compromised and it could hinder the prevention or detection of crime. That may even be because under FOIA forces may provide different responses and application of the S30 exemption in some areas and not others would in fact immediately expose such investigations.

### S31 Law Enforcement

#### *Favouring confirmation or denial:*

Some information regarding the ability to check against the list is already in the public domain and its full usage would make the public better informed.

#### *Against confirmation or denial:*

Law enforcement tactics could be compromised and there could be a hindrance to the prevention or detection of crime.

### Balance of Public Interest

At this time the potential harm to current and future investigations outweighs any public benefit in knowing if any additional information is, or is not held. Police Officers and staff are held to public account for their actions by the misconduct regulations and Dyfed Powys Police is held to account for investigating such matters appropriately by Her Majesties Inspector of Constabulary, and/or in some cases by the Independent Police Complaints Commission. There is no further tangible community benefit in complying with section 1(1)(a) of the Act at this time.

This response should not be taken as an inference that Dyfed Powys Police does, or does not hold any further information in relation to your request.

It may assist you to know that the Police Service would be legally entitled to process this sensitive personal data anyway, under Schedule 2 Condition 5 and Schedule 3 paragraph 10 (Statutory Instrument 417/2000, the Data Protection (Processing of Sensitive Personal Data) Order 2000, paragraph 2). The grounds for any decision would be that being a member of the BNP is incompatible with the role of a police officer/police staff and would be regarded as gross misconduct requiring formal action. This does not however mean that Dyfed Powys Police have taken such action at this time.

Under Section 16 (Duty of a public authority to provide advice and assistance) I have included a hyperlink to the Dyfed Powys Police website, which contains information that may be of interest to you:

<http://www.dyfed-powys.police.uk/en/news/2009/9/1/>