

NOT PROTECTIVELY MARKED

17 November 2009

Your Ref:

Our Ref: 0802/2009

Mark Walker

E-mail: request-19544-
11b54270@whatdotheyknow.com

Force Disclosure Unit
Police Headquarters
173 Pitt Street
GLASGOW
G2 4JS

Tel: 0141 435 1262

Fax: 0141 435 1218

Dear Mr Walker

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER 0802/2009

I refer to your request for information dated 6 October 2009, which was received by Strathclyde Police on that date. Please accept my apologies for the delay in responding.

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 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 Strathclyde 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 sensitive personal data been used for any purposes other than comparing against the Strathclyde Police personnel database?*
- 4. Who was responsible for the decision to compare sensitive personnel data against Strathclyde 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.*

In terms of Section 18 of the Freedom of Information (Scotland) Act 2002 (the Act) Strathclyde Police can neither confirm nor deny that it holds the information requested by you. However, if the information was held by the Force, it would be considered exempt in

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

terms of one or more of the exemptions detailed in Section 18 of the Act, which are listed below:

- Section 34 – Investigations by a Scottish Public Authority
- Section 35 – Law Enforcement

Section 18 of the Act also provides that there is no requirement on a public authority, when issuing a Refusal Notice in terms of Section 18, to state why the public interest in maintaining the exemption outweighs that in disclosure of the information; nor is there any requirement to state why the exemption applies in so far as that statement would disclose information which would itself be exempt information. This should not, however, be taken as conclusive evidence that the information you have requested exists or does not exist.

By way of explanation Strathclyde Police can neither confirm nor deny it holds any information in relation to investigations it may or may not have conducted, which have not subsequently been placed in the public domain. Confirmation of such information would undermine any current investigation by alerting those who are suspected of criminal activity, but it may also hinder 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. Again I would ask that you note that the foregoing should not be regarded as an indication that the information requested is held by Strathclyde Police.

By way of information, I can advise that there are provisions contained within the Data Protection Act 1998 that facilitate the processing of personal data for the purposes covered by the exemptions identified above should such processing have taken place. In particular Condition 5 in Schedule 2 of the Act and paragraph 2 of the Data Protection (Processing of Sensitive Personal Data) Order 2000 (SI 417/2000) created by virtue of Condition 10 in Schedule 3 in the Act are relevant. This clarification **should not**, however, be regarded as any indication of whether the information requested is or is not held by Strathclyde Police.

I hope this information is helpful, however, if you are not satisfied with the way that your request has been dealt with, you are entitled in the first instance to request a review of the decision made by the force. Should you wish to request such a review, please write to the Disclosure Manager within 40 working days of receiving this letter.

If, after having been informed of the Review Panel's decision, you are still not satisfied then you are entitled to apply to the Scottish Information Commissioner within six months for a decision. The Commissioner can be contacted the Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS, Telephone: 01334 464610.

Should you require any further assistance concerning this matter, please do not hesitate to contact me directly on 0141 435 1262, quoting the reference number given.

Yours sincerely

Lorna Grieve
Freedom of Information Officer

NOT PROTECTIVELY MARKED