

30 October 2009

Mr Mark Walker
By email

Policy & Communication

West Berkshire District Council
Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: Fol/2009/399

Your Ref:

Please ask for: Sue Broughton

Direct Line: 01635 519747

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e-mail:

scbroughton@westberks.gov.uk

Dear Mr Walker,

Request for information: Disciplinary action and complaints in respect of political affiliation or views of schools staff

We have now discussed your request. For the reasons given below we are unable to confirm or deny what information is held in respect of the first two questions.

1. Has your authority ever found a member of the BNP or any other political Party guilty of a disciplinary offence related to their Party membership in the last three years? If so please give information as to when and how many.

Information regarding political opinions or affiliation is sensitive personal data under the provisions of Section 2 of the Data Protection Act 1998. Information on disciplinary actions by the Council is in our view an internal matter and our employees would expect that such disciplinary actions would be kept confidential. To provide information, even statistical, which could be linked to disciplinary action the Council has taken and therefore to an individual would, in our view be a breach of 'fair and lawful' processing. Under Section 40 (5) of the Freedom of Information Act 2000 we are therefore unable to confirm or deny that this information is held. An annex (Annex 1) explaining the exemption is attached.

2. Has any parent complained to you regarding the Party membership of any employee or the expression of political views within School classrooms under your authority during the last three years?

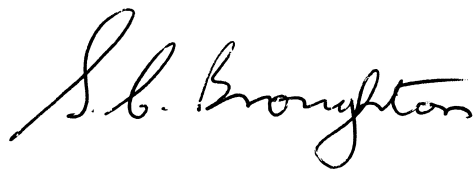
Complaints made to the Council are made in confidence, and we would not make this information public in view of our expressed promise of confidentiality to complainants. Under Section 41(2) of the Freedom of Information Act 2000 we are therefore unable to confirm or deny whether any such complaints have been made. An annex (Annex 2) explaining the exemption is attached.

3. What safeguards do you currently have in place to prevent members of any political Party promoting their views within Schools?

There is no Human Resources guidance on this matter. There is therefore no recorded information to provide in response to your request.

If you are unhappy with the way your request has been handled, you may ask for an internal review. You should contact David Lowe, Policy & Scrutiny Manager, Policy & Communication, Council Offices, Market Street, Newbury RG14 5LD, email dlowe@westberks.gov.uk if you wish to request a review. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Yours sincerely

A handwritten signature in black ink that reads "S. Broughton". The signature is written in a cursive style with a large initial 'S'.

Sue Broughton
Information Management Officer

40 Personal information

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if—
- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.
- (3) The first condition is—
- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the [1998 c. 29.] Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—
- (i) any of the data protection principles, or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
- (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the [1998 c. 29.] Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.
- (4) The second condition is that by virtue of any provision of Part IV of the [1998 c. 29.] Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).
- (5) The duty to confirm or deny—
- (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
- (b) does not arise in relation to other information if or to the extent that either—
- (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the [1998 c. 29.] Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
- (ii) by virtue of any provision of Part IV of the [1998 c. 29.] Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject’s right to be informed whether personal data being processed).
- (6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the [1998 c. 29.] Data Protection Act 1998 shall be disregarded.
- (7) In this section—
- “the data protection principles” means the principles set out in Part I of

Schedule 1 to the [1998 c. 29.] Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

- “data subject” has the same meaning as in section 1(1) of that Act;
- “personal data” has the same meaning as in section 1(1) of that Act.

This is an absolute exemption not subject to the public interest test.

Annex 2

41 Information provided in confidence

(1) Information is exempt information if—

(a) it was obtained by the public authority from any other person (including another public authority), and

(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

(2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

This is an absolute exemption not subject to the public interest test.