

02 February 2013

Mrs J Giggins  
By email

**Strategic Support**

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

**Our Ref:** Fol/2013/17

**Your Ref:**

**Please ask for:** Sue Broughton

**Direct Line:** 01635 519747

**e-mail:**

scbroughton@westberks.gov.uk

Dear Mrs Giggins,

**Request for information: Letter to the ICO**

You have requested;

- 1. The letter from West Berkshire Council to the ICO dated 12 June 2012.*
- 2. The undated letter sent by the ICO in response on 8th August 2012.*
- 3. A copy of the letter from the ICO requesting permission to disclose the information.*
- 4. West Berkshire Council's reply.*
- 5. Any subsequent correspondence on the matter.*

It is our view that some of the requested information falls within the exemption at S36(2)(b) as information the release of which would be likely to inhibit the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation. The application of this exemption has been considered by the Monitoring Officer, David Holling, Head of Legal Services, as the 'qualified person' under the Act, and it is his reasonable opinion that for the majority of the information the exemption is engaged. A copy of the exemption is appended.

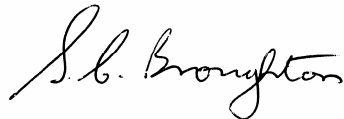
We are therefore refusing your request for the letter from West Berkshire Council dated 12<sup>th</sup> June 2012, the undated letter sent in response by the ICO on 8<sup>th</sup> August 2012, and a part of the Council's response to the ICO's letter of consultation on your Data Protection request to the ICO. I have supplied the remaining information in a separate attachment. In response to question 5 there was no subsequent correspondence.

If you are unhappy with the way your request has been handled, you may ask for an internal review. You should contact David Lowe, Scrutiny & Partnerships Manager, Strategic Support, Council Offices, Market Street, Newbury RG14 5LD, email [dlowe@westberks.gov.uk](mailto:dlowe@westberks.gov.uk) within forty working days 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

[www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely

A handwritten signature in black ink, appearing to read 'S.B. Broughton', written in a cursive style.

Sue Broughton  
Information Management Officer

### **36 Prejudice to effective conduct of public affairs**

(1) This section applies to—

- (a) information which is held by a government department or by the National Assembly for Wales and is not exempt information by virtue of section 35, and
- (b) information which is held by any other public authority.

(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

(a) would, or would be likely to, prejudice—

- (i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
- (ii) the work of the Executive Committee of the Northern Ireland Assembly, or
- (iii) the work of the executive committee of the National Assembly for Wales,

(b) would, or would be likely to, inhibit—

(i) the free and frank provision of advice, or

(ii) the free and frank exchange of views for the purposes of deliberation, or

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

(3) The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).

(4) In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words “in the reasonable opinion of a qualified person”.

(5) In subsections (2) and (3) “qualified person”—

- (a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,
- (b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,
- (c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,
- (d) in relation to information held by the House of Commons, means the Speaker of that House,
- (e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,
- (f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,

(g) in relation to information held by the National Assembly for Wales, means the Assembly First Secretary,

(h) in relation to information held by any Welsh public authority other than the Auditor General for Wales, means—

(i) the public authority, or

(ii) any officer or employee of the authority authorised by the Assembly First Secretary,

(i) in relation to information held by the National Audit Office, means the Comptroller and Auditor General,

(j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,

(k) in relation to information held by the Auditor General for Wales, means the Auditor General for Wales,

(l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means—

(i) the public authority, or

(ii) any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,

(m) in relation to information held by the Greater London Authority, means the Mayor of London,

(n) in relation to information held by a functional body within the meaning of the [1999 c. 29.] Greater London Authority Act 1999, means the chairman of that functional body, and

(o) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means—

(i) a Minister of the Crown,

(ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or

(iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown.

(6) Any authorisation for the purposes of this section—

(a) may relate to a specified person or to persons falling within a specified class,

(b) may be general or limited to particular classes of case, and

(c) may be granted subject to conditions.

(7) A certificate signed by the qualified person referred to in subsection (5)(d) or (e) above certifying that in his reasonable opinion—

(a) disclosure of information held by either House of Parliament, or

(b) compliance with section 1(1)(a) by either House,

would, or would be likely to, have any of the effects mentioned in subsection (2) shall be

conclusive evidence of that fact.