

Freedom of Information Request received 15.10.15

Dear Parish Councils and SWAB Neighbourhood Plan Steering Committee,

My Freedom of Information request is as follows:

"Please provide copies of the completed Registers of Interests for all those who are currently involved in the preliminary evaluation of the 22 potential housing and business development sites within the SWAB Neighbourhood Plan Area."

Request

Please provide copies of the completed Registers of Interests for all those who are currently involved in the preliminary evaluation of the 22 potential housing and business development sites within the SWAB Neighbourhood Plan Area.

Response

Refused

And then after a ruling from the ICO, the registers were disclosed by making them available to the public from 17 June 2016

Freedom of Information Act request received 05.10.15

Regarding Steyning Area Youth Service (SAYS)

FoI Act Request

Please could you either upload or let me have a copy of:-

- 1 The service contract between the councils and Horsham Matters
- 2 The contract (if any) between the councils and SAYS
- 3 The terms of reference of the SAYS management committee.
- 4 The document about SAYS referred to by Cllr Howell as the "Narrative I put out.....I spent a lot of time on that" which was apparently distributed to the Clerk and fellow councillors at about the beginning of April 2015. This is referred to in the recording of the 7 April 2015 F and C Committee at 47 minutes in.
- 5 The updated SAYS governance document referred to in the Upper Beeding Minutes of 19 May 2015

Dear Mr [REDACTED]

Following your recent FoI request for personal copies of the Registers of Interest that all SWAB Housing Focus Group have members completed, Steyning Parish Council has sought guidance from the Information Commissioner's Office and Housing Focus Group members have discussed the request at a recent meeting.

Housing Focus Group members have agreed that they would not wish their registers of interest to be made public.

The ICO has advised us that in supplying copies of ROI's SPC would be in breach of the Data Act Protection; personal data held on paper files should not be made available to the public. They also commented that a member of the public should not reasonably expect the data to be put in the public domain.

Consequently the SWAB NP Steering Group will be amending their Terms Of Reference accordingly in relation to Focus Groups.

Kind regards

Rebecca Luckin
Clerk to the Council
01903 812042

Dear Ms Stephenson,

I write further to the Council's recent disclosure (17 June 2016) to Mr — of the completed Registers of Interests of those Individuals who are members of the SWAB Neighbourhood Plan Area. This information was originally requested on 15 October 2015 and was erroneously withheld by the Council under Section 40(2) of the FOIA (third party personal data).

It is clearly unsatisfactory and a matter of concern where there is a serious delay (in this case 8 months) in a public authority disclosing information which is not otherwise validly exempt under the FOIA. The Commissioner's investigation has sought to ascertain the reasons for the Council's erroneous application of Section 40(2). In the interests of due transparency and to ensure that there is no scope for misunderstanding or misrepresentation by any party in this matter, this email has been copied to Mr —.

Where requests for information involve the personal data of individuals, public authorities should always carefully consider whether it would be appropriate to disclose such information and if in doubt should err on the side of caution given the data protection concerns. Whether it would be fair to disclose such information will often depend on the reasonable expectations of the individual(s) concerned and other case specific circumstances. Generally speaking, if an individual occupies a senior or public facing role in an organisation then they should expect to have certain personal data (e.g. their name) placed in the public domain. The same expectation will not usually apply to junior or non-public facing personnel.

In this case the personal data was the information provided by the SWAB members in the Registers of Interests (RoIs) forms. The Commissioner would note that whilst there may have been no statutory duty upon the Council to obtain the completed forms, the Council acted in accordance with good practice in doing so. Given the responsibilities and influence of the SWAB, serious and legitimate questions as to transparency and accountability would have been raised if the Council had not demonstrated provisions to protect against any potential conflicts of interest. Unfortunately, what the Council did not appreciate is that such transparency and accountability needed to be public and not within the Council itself.

Upon receipt of this information request, the Council sought what they reasonably thought to be reliable advice (including the ICO).

Whilst public authorities are ultimately responsible for their own decisions with regard to FOIA compliance, the Commissioner recognises and appreciates that parish councils will often not have the same degree of expertise and familiarity with FOIA as

FOI Request received 04.03.15

Many thanks for this prompt and helpful reply, Rebecca.

I am disappointed that my recent offer regarding the questions which need to be asked regarding the Council's VG protocol legal advice has been rejected by the councillors concerned. This genuine attempt to try to work cooperatively with the Council would have avoided the following request.

We believe it is inappropriate that the Council is continuing with a policy that legal advice as to what the public can and cannot do on the MPF public village green should be kept from the public who actually paid for the advice. Particularly as the conclusions the Council draws from this advice are being used to regulate the conduct of the public it serves in a way which many believe to be mistaken. In particular, as confirmed at the 20 January 2015 Playing Fields Committee debate about a bouncy castle, the Council has told the Cricket, Tennis, Bowls and Football Clubs they are limited to their particular sport rather than to the general recreational activities which village green law protects and so, for example, the bouncy castle could not be used if it was linked to a function organised by the Cricket Club. As I indicated previously, we believe that either this advice is wrong or it is being misinterpreted/misrepresented and there does not seem to us to be any good reason why the advice itself should not be made public so that we can all work together to try to achieve what is best for the community so that the Clubs' activities and the public are not fettered unnecessarily.

As far as we understand it, the legal advice as to what can legitimately be carried out on the MPF village green and which is intended to underpin a published "protocol" for the public's use of the public's village green (which has apparently been pending for about two years), and which was the basis of the Committee's stated concerns about the bouncy castle, is completely separate from the legal advice SPC obtained recently relating to VG rectification/ VG exchange land. The latter matters related to potential litigation and might arguably have carried litigation privilege when litigation was pending, however the "protocol advice" appears to have no relevance to potential litigation and so does not carry litigation privilege, though it probably at the time it was obtained carried advice privilege.

We attach the ICO guidance document regarding the legal professional privilege (LPP) qualified exemption. Please could we ask you to note para 36 which we copy below for ease of reference. The substance of parts of the "protocol legal advice", which probably had the benefit of advice privilege and so was covered by s42, has subsequently been revealed by the Council both to Club members at meetings between some councillors and Club representatives and separately to the general public at Parish Council meetings and is being used to regulate the public's conduct - including being used to require the member of the public requesting the bouncy castle to say whether it is linked to a private function at the Cricket Club. The councillors stated this linkage would be unacceptable. What appear to be the substance of parts of this protocol advice have even appeared on the Skatepark Supporters' Facebook postings before it was more generally disclosed at meetings. Thus, as para 36 of the Guide confirms, the

Factor in favour of disclosure

The assumption in favour of disclosure and the rationale behind the assumption (ie accountability, transparency, furthering public debate etc).

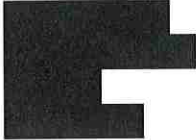
Additional weight may be added to the above factor if the following issues are relevant in the particular case:

- large amount of money involved;
- large number of people affected;
- lack of transparency in the public authority's actions;
- misrepresentation of advice that was given;
- selective disclosure of only part of advice that was given.

All of these factors apply in our opinion. Viz:-

The refusal to publish is stifling accountability and is the opposite of transparency and is preventing proper public debate. As I said in my message of 20th January *"There is complete unity of interest throughout the community in making sure that perfectly lawful activities are not wrongly stifled by incorrect or misinterpreted legal advice and by concern about a non-existent threat. The recent debate made plain that even if the clubs obtained their own contrary advice, the Council would regard itself bound by its existing advice. Accordingly the important thing for the community is to be able to assist SPC in fully*

31st March 2015



Dear [REDACTED]

Re: Request under Freedom of Information Act, received 4th March 2015

Councillors have noted your request, on behalf of [REDACTED] for sight of legal advice, obtained by Steyning Parish Council, regarding the implications of Village Green Status upon the MPF.

Councillors have noted your opinion that legal advice was previously disclosed, as referenced in the minutes of 05.03.13, 13.05.13 and 20.01.15. In liaison with Councillors, I have undertaken a thorough investigation to identify occasions when legal advice may have been shared. I note that at the Playing Fields Committee meeting of 20.01.15, reference 6.1 and during question time, Councillors considered a request for use of a bouncy castle on the MPF and referred to legal advice obtained by Steyning Parish Council. For the source of this advice, please see attached notes:

- 1) Village Green – notes on meeting with Hedley's 15.02.13 (with all other advice redacted)
- 2) E-mail from Hedley's 20.10.14 (with all other advice redacted)

In the event that you are not satisfied with this response, please be advised that Steyning Parish Council has a general Complaints Procedure, a copy of which is available from the Parish Council website <http://steyningpc.gov.uk/wp-content/uploads/2012/12/COMPLAINTS-PROCEDUREAdopted-March-2014.pdf>

Kind regards

Rebecca Luckin
Clerk to Steyning Parish Council

FOI Request received 05/10/15

A copy of recordings of the minutes of Planning and Playing Field Committee minutes was provided to the requester. Steyning Parish Council look forward to being able to upload recordings of meetings to the website in the near future.