

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 

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

Councillors have noted your request, on behalf of  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