

West Hill Parish Council Meeting 20th July 2023
Agenda No 23/264
Update on Subject Access Request to Councillor of 8th March 2023

1. Purpose

- To update Councillors on the Information Commissioner's Office Lead Case Officers response to a failure by a former Councillor to comply with the Data Protection Act.
- To note WHPC has written to the former Councillor requesting them to comply with the law and to note there may be a requirement to take legal action against the individual.

2. Background

- a) Parish Councillors are deemed Councillor Data Controller (Article 4(7) UK GDPR) for the information they hold as Councillors that is not held by the Council itself under the control of the WHPC Data Protection Officer.
- b) A Councillor appeared to record parts of the proceedings at the WHPC meeting of 7th March 2023. Any such recording would most likely include not only the voices of the Councillors and Clerk, but also of any members of the public attending the meeting who spoke. The Councillor had not declared that they were or would be recording proceedings or parts thereof.
- c) Such recording(s) would include the voice of the Chairman of the meeting, and as such is deemed personal data subject to the Subject Access requirements under Article 15 Data Protection Regulations. Once the Chairman was advised regarding the undisclosed recording(s), a Subject Access Request was sent to the Councillor (8th March 2023) for a copy of the recording(s).
- d) The Councillor responded by email on the 10th March 2023 stating, "*I consider your demands are unlawful and further bullying and harassment. I will not respond but will continue to correspond with the ICO ¹ On this and your previous individual and joint treatment of FOI and GDPR matters. As it is clear you are working together on a campaign of hate and abusing your respective positions, it is not clear who is directing who. I will not be responding to the unlawful demands to respond to the Chairman including her 'false flag' SAR ² submitted on WHPC stationery*".
- e) The Chairman wrote to the Councillor on the 12th March 2023 reminding the Councillor they had a legal obligation to respond to the SAR and requested to the review their 'refusal' and/or answer the request.
- f) On the 31st March 2023 the Chairman wrote to the Councillor pointing out that the timeframe set by law of one month to respond was nearly up and pointing out that any resignation does not negate their legal responsibilities. They were advised that if the law was not fully complied with within the required calendar month then the ICO would be informed.
- g) On the 5th June 2023 the ICO Lead Case Officer advised WHPC as follows:-
*"Thank you for raising your concerns with the Information Commissioner's Office, I have written to (redacted) about your complaint and reminded him of his data protection obligations. I have instructed him to now provide an appropriate response to your subject access request within **14 days**. ..."*
- h) A letter was posted to the former Councillor on the 13th June 2023 to advise them Councillor CANNINGS would 'block' their emails in view of the nature and content of such emails. In that letter it was stated that the ICO had advised of their response (supra) and so it was requested the former Councillors response be posted.
- i) On the 15th June 2023, the WHPC Chairman received the following response,
"Dear Chairman of WHPC
1. I have received a peculiar letter from Councillor Della CANNINGS referring to an ICO case (redacted) and instructing me to respond to her home address by post because she now blocks me from emailing her. Please advise your fellow Councillor

¹ Information Commissioner's Office

² Subject Access Request

that I will not respond to her offensive harassment and bullying correspondence. I have no record of any such ICO case. I will be making a further complaint to the Monitoring Officer. I will also inform the ICO. As Councillor CANNINGS has signed her letter as a Councillor, I ask you if she is acting unilaterally on behalf of the Council with your approval."

- j) The ICO were contacted on the 15th June 2023 to ascertain confirmation they had advised the former Councillor. The ICO Lead Case Worker responded on the 27th June 2023 stating:-
“.... I have written to(redacted) again and provided (Redacted) with a copy of my original email. I hope that this will resolve he matter”.
- k) On 27th June 2023 the WHPC Chairman has written to the former Councillor requesting they respond to the Subject Access Request and comply with the law and that the matter would be reported to a WHPC public meeting.

3. Decisions:

- **To note this update report and that a failure for WHPC to receive the requested information could lead to WHPC taking legal action against the former Councillor.**