

Adult and Community Services
Data Protection & Information Officer

5 April 2016

Our Ref: e18849

Re: Request for information under the Freedom of Information Act 2000

Your request for information which was received on 21 March 2016 has been considered. Please find our response below.

Your request:

- 1. Does the authority have a social media policy on the use of social media by its employees? Social media includes but is not limited to Facebook, Twitter, Instagram, etc. Please say if it is a separate policy of part of your Code of Conduct?*
- 2. If so can I please have a copy of the policy and any additional guidance provided to staff sent to me electronically in an accessible format e.g. .docx or .pdf format?*
- 3. It may be that the use of social media is covered by the authority having a wider e-communications policy, in which case can I please have a copy of that sent to electronically in an accessible format e.g. .docx or .pdf format?*
- 4. What was the date when the social media or wider e-communications policy was introduced?*
- 5. Can you please tell me for the period since the introduction of the social media or e-communications policy up to the 31st December 2015, how many employees have been investigated for breaching the policy on social media use? NB If the authority does not maintain central records of disciplinary action against employees of LEA Maintained schools then that data can be excluded.*
- 6. For each investigation please state whether the allegation was proven and what the disciplinary outcome was? Discipline in this case is limited to the issuing of a written warning, final written warning or dismissal for gross misconduct or that the employee resigned. Any case where an appeal or Employment Tribunal hearing is outstanding should be excluded.*
- 7. For each investigation please state the nature of the allegation and the name of the social media involved e.g. Facebook, Twitter, Instagram, etc.*
- 8. For each investigation please provide information of the age of the employee in the following bands:*

16 to 24,
25 to 34,
35 to 44,
45 to 54 and
over 55.

NB These bands match those used by OFCOM for its data on use of social media in their annual Communications Market report as this information requested will be benchmarked against that.

9. For the same time period what percentage of the total disciplinary proceedings taken against employees were related to use, misuse or abuse of social media. NB If the authority does not maintain central records of disciplinary action against employees of LEA Maintained schools then that data can be excluded.

10. If the authority does not have a specific social media policy then can you please answer questions 5 to 9 for the time period from 1st January 2012 to 31st December 2015.

Our response:

1-3. Yes the Council has a Social Media Policy. Please see a copy of this policy published in response to a previous FOI request. (16133_2.pdf)
http://www.richmond.gov.uk/foi_log/foi_case_details.htm?id=16133

4. 2013

5 & 6. We do not record all “investigations” as some of these may have been informal. However the outcome of all formal investigations can be found in response to a previous FOI request. (18041_2.xls)
http://www.richmond.gov.uk/foi_log/foi_case_details.htm?id=18041

7- 8. Due to the low numbers we cannot provide any further information as it may identify individuals.

9. As the numbers are low we cannot provide exact figures however there were a total of 29 disciplinary proceedings in 13/14.

10. N/A

Please see Appendix 1 for the legal reasoning behind the decision not to provide specific information that would allow individuals to be identified and your right of appeal.

Kind regards

Data Protection and Information Officer

Appendix 1

Detailed legal reasoning for refusal

Section 40(2): Personal Information

Providing low level data and specific circumstances regarding disciplinary action would allow for the possibility of those individuals being identified. Specifically in terms of the provisions of the Freedom of Information Act 2000 this information is exempt under Section 40(2) as “personal data other than that of the requestor”

The definition of personal data is set out in Section 1 of the Data Protection Act 1998 and provides:

“Personal data” means data which relate to a living individual who can be identified—

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual;

Richmond Council has applied the reasoning in the following Information Commissioner Decision [FS50543792](#)

Paragraphs 15 &16:

15. The Commissioner has considered the information and the number of individuals involved and has concluded that if the Council were to disclose the exact number in each category, particularly if the numbers for any were one, it could be possible to identify the individuals concerned. By aggregating the information the Council has minimised the possibility of identification.

16. The Commissioner does however note that the chances of any member of the public being able to cross-reference this information to identify specific individuals is not high but given the low numbers involved there is a risk that specific individuals could be identified by a person with knowledge of special educational needs and appeals in the area. The Council has stated that the complainant in this case is an individual who has knowledge of this. In addition, the Commissioner recognises that other individuals, such as parents at schools or Council employees may be able to identify individuals. Therefore, on the balance of probabilities, the Commissioner accepts the information is personal data.

Similarly, we consider a determined individual with other knowledge of this matter may be able to use the specific details to attempt to identify the individuals involved. We therefore consider that this information constitutes personal data.

We have now considered whether disclosure would breach any of the principles of the Data Protection Act.

Such information should only be processed for specified, lawful and compatible purposes and I do not consider this to be a compatible purpose [Principle 2].

Furthermore such information should be processed in accordance with the rights of the data subjects who would have a legitimate expectation that the information would not be disclosed to members of the public [Principle 6].

I consider that the disclosure of this information to members of the public could cause damage or distress to the data subjects. I have given regard to condition 6 of Schedule of 2 of the DPA which provides:

6 (1) the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

In reaching a view I have taken account of the individual's reasonable expectations of what would happen to their personal data, whether disclosure would be incompatible with the purposes for which it was obtained and whether disclosure would cause any unnecessary or unjustified damage to the individual.

In this instance the data subjects would not have any reasonable expectation that the details would be made public.

I have concluded that it is neither in accordance with the Data Protection Act 1998 principles nor in the public interest to release this specific data.

In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice.

You have the right of appeal against our policy. If you wish to appeal please set out in writing your grounds of appeal and send to:

Corporate Complaints and Access to Information Manager
Community Engagement and Accountability Team
Adult and Community Services
3rd Floor Civic Centre
44 York Street
Twickenham
TW1 3BZ
E-mail: foi@richmond.gov.uk

If you are dissatisfied with the outcome of the internal appeal you may appeal further to the Information Commissioner's Office at:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
fax: 01625 524 510
DX 20819

www.ico.org.uk