

From: John Illingworth  
Date: 11/03/2008 08:50  
To: Mark Turnbull  
Cc: Bernard Atha, Elizabeth Minkin, Chris Edwards,  
bishop.riponleeds@virgin.net, info@abbeygrange.leeds.sch.uk  
Subject: Powerleague proposals at Butcher Hill

Dear Mark,

Here is an interesting Data Protection issue for you to ponder.

There is a dispute developing between local residents and school governors at Abbey Grange C of E High School about a proposed 25 year lease of the school playing fields to a company called "Powerleague" in order to construct a 5-a-side soccer complex on Green Belt land at Butcher Hill in Kirkstall. The matter has already been reported in the local press.

Consent is required from the Secretary of State under section 77 of the Schools Standards and Framework Act 1998 for the sale or lease of School Playing Fields (SPF). DfES issued a Circular 3/99 on the Protection of School Playing Fields which now forms part of the Guidance on the Law maintained by the new Department for Children, Schools and Families. This document envisages at least ten weeks term-time consultation with a variety of interest groups, including parents, sports clubs and local residents. The SPF Guidance was substantially updated in November 2004 as part of "Building Schools for the Future". A minor revision in July 2006 appears to be the latest edition. MS Word versions can be downloaded from Teachernet, but you can download a more compact [PDF version](#) here. Additional non-statutory [guidance](#) was issued by Sport England in July 2005.

The school is supposed to consult with the parents, most of whom live in other areas of Leeds. I fear that the school governors might give a one-sided account of their scheme, and the parents should really hear both sides of the argument. Legally I understand that the school is the guardian of the parents' addresses under the Data Protection Acts, so it is difficult for us to write to the parents or their children, or to use "pupil post" without the cooperation of the school.

"Audi alteram partem" is a basic principle of English law, and I would have thought it was part of the pupils' education to realise that there are two sides to any dispute. I believe it is in everybody's best interests for there to be a wide-ranging debate, but this depends on our ability to contact each other.

Can you see any way through this legal minefield? For a "normal" school there would not be a problem because most parents and children would live in the local community. It is the unique nature of the Abbey Grange catchment that causes this difficulty. I am copying this letter to the Bishop of Ripon and Leeds, Director of Education and to the school.

John Illingworth

From: Mark Turnbull/CED/LCC  
Date: 18/03/2008 12:00  
To: John Illingworth/MEM/LCC@Leeds\_City\_Council  
Cc: Bernard Atha, Elizabeth Minkin, Chris Edwards, Paul Taylor,  
bishop.riponleeds@virgin.net, info@abbeygrange.leeds.sch.uk,  
Subject: Re: Powerleague proposals at Butcher HillLink

Cllor Illingworth,

Thanks for your e-mail about this. On the data protection side, it would generally be my colleague Paul Taylor in Education Leeds who would advise the schools on this sort of issue, although I have discussed this matter with Paul and I know he agrees with my views on the data protection issues here. From what you say this seems relatively straightforward. I expect the schools will have collected the name and addresses of parents and carers broadly for 'school purposes', and given this is a proposal relating to the school playing fields, I do not think it could be said that using this data to write to the parents about this was 'processing' which was 'incompatible' with the specified purpose under the 2nd data protection principle.

In addition, in terms of satisfying the 1st principle for fair and lawful processing, and one of the fair processing conditions, I think it must be right that using the data in this way is part of the 'legitimate interests' of the school, or yourself in the discharge of your role as a ward Member, because clearly this is an important issue both for the school and for the local community. Whilst I could see the argument that parents would not expect their details to be used for direct contacts from ward Members about local matters in general, I do not see how their rights and interests could be prejudiced by a contact about a matter affecting the operation of the school, such as this. Given that the parents and children are apparently outside the local community and so are unlikely to be contactable otherwise, I can also see why it could be said 'processing' the data in this way is 'necessary'.

However, there is a caveat to this. The school may have issued a general fair processing notice outlining the purposes for which this sort of data will be processed. If so, I would think it's unlikely that a disclosure of this data to ward Members would have been contemplated. Consequently, without detracting from what I've said above I think the proper way of dealing with this from a fair processing point of view would be for the school to consider sending out the letter from yourself to the parents, rather than simply disclosing the names and addresses to you for these purposes. Alternatively, if the school felt this was intrusive, it could consider disclosing the addresses to you, but without the names.

As I understand it however, it will be the governors who have the responsibility of being 'data controllers,' and so in the end this will turn upon what they consider to be fair processing, but I hope this clarifies matters for all concerned.

Regards.

Mark

Mark Turnbull  
Head of Property, Finance & Technology  
Legal, Licensing and Registration Services  
Leeds City Council  
Tel: 0113 2474408  
Fax:0113 2443526  
Mobile:07891276165  
email: [mark.turnbull@leeds.gov.uk](mailto:mark.turnbull@leeds.gov.uk)  
[www.leeds.gov.uk](http://www.leeds.gov.uk)