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Epsom Council Rainbow Centre secrecy row deepens over “pre-election silence” advice

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Epsom and Ewell Borough Council’s attempt to justify refusing answers to Epsom and Ewell Times before May’s elections has itself become the subject of a fresh transparency dispute.

The Council has now disclosed, following a Freedom of Information request, that the decision to rely on Section 2 of the Local Government Act 1986 (prohibition on Council promotion of political parties) involved the Council’s Chief Executive, Monitoring Officer, senior corporate and communications officers and Cllr Neil Dallen (RA Town), Chair of Strategy and Resources.

Yet the Council simultaneously claims it holds no legal advice, governance advice, briefing or equivalent guidance explaining why Section 2 supposedly prevented answers being given to press questions about the Rainbow Leisure Centre controversy.

The issue concerns Cllr Neil Dallen’s (RA Town Ward) refusal before the election to answer questions relating to the Rainbow Leisure Centre, where a confidential urgent decision warned of dilapidations potentially costing “up to £500k”.

He has *post-election* offered a response which is the subject of our report: No end to Epsom’s Rainbow Leisure Centre controversy

Guidance relied upon appears to undermine Council’s position

The Council disclosed a Surrey local government pre-election guidance document as the material relied upon. However, the guidance appears to say something rather different from the position adopted by Epsom and Ewell Borough Council.

The document emphasises political neutrality, impartiality and avoidance of electioneering by councils during election periods. But it also expressly states that councils may continue normal business and are allowed to “publish factual information to counteract misleading, controversial, or extreme information”.

It further stresses even-handed treatment of information requests and continuation of ordinary council business.

Epsom and Ewell Times’ questions to Cllr Dallen and others sought factual explanations of decisions already taken — not campaign material, political advocacy or commentary on electoral opponents.

“No advice held” raises further questions

The Council’s response identifies senior officers and a senior councillor as participants in the decision to invoke Section 2. However, when asked for legal advice, governance advice or internal briefing supporting the decision, the Council replied: “This information is not held by the Council.”

That response raises obvious questions. Was no legal or governance reasoning recorded despite involvement of the Monitoring Officer and senior management? Was advice given informally but not documented? Or has relevant information been withheld under another exemption?

The Council has separately relied on Section 36 of the Freedom of Information Act to refuse disclosure of internal communications concerning the decision-making process.

Neutrality — or protection from scrutiny?

The controversy touches on a sensitive constitutional question.

Pre-election restrictions exist to prevent councils using public resources to influence elections or support political parties. They are designed to preserve political neutrality.

But critics may ask whether refusing factual answers on controversial matters involving the ruling administration risks producing the opposite perception — namely that council machinery is being used to shield politically damaging issues from scrutiny immediately before voters go to the polls. That concern is sharpened by the context.

The Rainbow controversy involved questions about a confidential urgent decision, possible dilapidations of up to half a

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million pounds, the Council's inspection responsibilities over a major public asset, and the role of the Chair of Strategy and Resources, Cllr Dallen, who was standing for election to the new East Surrey Council.

Whether the officers involved were properly protecting neutrality, or whether the interpretation adopted had the practical effect of protecting the ruling political group from uncomfortable questioning during an election campaign, is likely to remain contested.

Internal review sought

Epsom and Ewell Times has now requested an internal review by an officer independent of those involved in the original decision.

The review request challenges the Council's use of Freedom of Information exemptions, the apparent absence of recorded legal reasoning, and the interpretation of the very guidance relied upon to justify pre-election silence.

Sam Jones – Reporter



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