



Freedom of Information Request Reference N°: FOI 000259-18

I write in connection with your request for information received by Suffolk Constabulary on the 17 January 2018 in which you sought access to the following information:

1. *"How many sex offenders are registered in your force area whose whereabouts are unknown as of January 17th, 2018?"*
2. *"Of the registered sex offenders whose whereabouts are unknown, when did each one go missing?"*
3. *"Please provide the names of the registered sex offenders whose whereabouts are unknown and the convictions that resulted in each one being placed on the sex offenders' register."*

Response to your Request

The response provided below is correct as of 17 January 2018

Suffolk Constabulary has considered your request for information and the response is below.

In relation to the number of registered sexual offenders whose whereabouts are unknown, Suffolk Constabulary has as of the date of your request 2 RSOs currently recorded as wanted because their whereabouts are unknown. This total is only valid for the date in question because the information is dynamic and will change as arrests are made or new cases come to light through proactive intelligence led policing or routine visits to registered offenders.

The above figure does not include RSOs who have breached their notification requirements but their location is known to be abroad.

I am unable to confirm the offences for which they were registered of their names, as a result of exemptions within the Act.

Section 17 of the Freedom of Information Act 2000 requires that Suffolk Constabulary, when refusing to provide such information (because the information is exempt) are to provide you the applicant with a notice which:

- a. States that fact
- b. Specifies the exemption(s) in question and
- c. States (if that would not otherwise be apparent) why the exemption(s) applies.



The information is exempt from disclosure by virtue of the following exemption(s);

Section 40(2) – Personal Data

Section 31(1) – Law Enforcement

Section 40(2) is an absolute exemption and applies to third party personal data. This would not be released under the FOIA unless there is a strong public interest. This is because any release would breach Data Protection Principles contained within the Data Protection Act 1998.

One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third party personal data, is exempted unless there is a strong public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act 1998 as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life. The latest advice from the Information Commissioner, when applying the exemption at section 40(2), is to firstly consider fairness. Fairness relates to consideration of expectation and consequences in relation to the use of a person's personal data.

To disclose this information to the public via the Freedom of Information Act would not be considered 'fair'. It is reasonable to assume that members of the public would expect their personal details to be kept confidential and in accordance with the Data Protection Act, and that information would not be made publicly available by releasing the details via the Freedom of Information process.

Once released the information is published on the Suffolk Constabulary website and is available to any internet user. This may include persons making inaccurate assumptions as to whom these persons are, as there will undoubtedly be many persons in the country with the same name.

It is for these reasons outlined above; that I feel the first data Protection principle would be breached by disclosing the name of the missing registered sex offenders along with the principle offence that is unique to that person that the Section 40 exemption remains in place. This is an absolute, class-based exemption and, as such, there is no requirement for the public interest test.

Section 31 is a qualified, prejudice-based exemption and therefore we are obliged to provide evidence of harm and a public interest test.



Harm

The disclosure, publication and subsequent discussion of information relating to RSOs are invariably and understandably, emotive due to the actual and perceived nature of these crimes. Any disclosure we make must be considered thoroughly to ensure that a disclosure would not undermine effective law enforcement. Any disclosure that could challenge the Constabulary's ability to efficiently carry out our duties as law enforcers would be detrimental to the Constabulary's abilities RSO management.

The provision of the information may identify any occasions where an RSO has gone 'underground' without detection. The specific offences coupled with the time frame for which they have been missing will identify particulars regarding RSOs the Constabularies are aware to be wanted. Consequently identifying those the Constabulary is unaware of being 'missing' and in breach of the notification requirements, therefore section 31 would be engaged.

Public Interest Test

(When applying a qualified exemption a public authority is required to consider whether in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information)

Considerations favouring disclosure

Disclosure of this information demonstrates police awareness of offenders who are missing, providing reassurance to the public that the police have the ability and resources in place to ensure the proper police management of sexual offenders on the register. The length of time that these offenders have been missing will be relevant to judging the efficiency and effectiveness of the force.

This information will enable the public to be better informed with regard to the activities of those offenders whose whereabouts are unknown. This information would inform debate on the issues concerning the management of sexual offenders, and allow evaluation of MAPPA processes. Similarly, it will inform debate on any perceived failings of the system.

In addition to encouraging the public to report information specifically concerning missing offenders, such a disclosure raises the profile of underlying issues of sexual and child abuse, and will encourage reporting of actual incidents of abuse, many of which go unreported at present.

Considerations favouring non-disclosure

Disclosure of this information may compromise the current or future law enforcement role of the force. In this case, disclosing the time missing of offenders, as per the harm, may enable an



offender to know whether or not their disappearance has been detected, this will enable them to take steps to make it more difficult to detect their whereabouts.

This may mean that additional resources have to be diverted in order to locate them, which will cause a reduction of capability in other areas of public protection. Similarly, disclosure at this level may result in the negative impact on those offenders who are managed within the MAPPA system and could drive offenders underground, reducing the effectiveness of the system.

Suffolk Constabulary work closely with other Partner Agencies to ensure that we efficiently manage those persons under the management of MAPPA, and we would not wish to undermine any work already completed to try to ascertain the whereabouts of those missing RSO's by disclosing information via Freedom of Information Disclosures. This would undermine the partnership approach to information sharing and would inhibit future law enforcement in this area, and indeed any other occasions where a partnership approach is required.

Balancing Test

The considerations favouring disclosure mainly relate to keeping the public informed and police accountability. This is already achieved to a very high level by the publication of the annual MAPPA report, appropriate media releases and key performance indicators. This is enhanced by the monitoring functions of Her Majesty's Inspectorate of Constabulary (HMIC). There is also a well-established legislative process, via the Police Reform Act, whereby the Independent Police Complaints Commission (IPCC) will ensure any complaints about the police service are dealt with appropriately. These facts somewhat reduce the impact of any potential community benefit in receiving this information.

It is accepted that it is in the interest of protecting public safety that the public should be made aware of how many sexual offenders are currently wanted because their whereabouts are unknown, and furthermore, that police forces should be able to provide this information. However, this aspect of accountability is fulfilled by the disclosure of the statistics for the number of missing offenders, rather than by more detailed information about them. Opposed to considerations favouring disclosure is the key negative of public safety. We can never be entirely sure what effect information disclosures may have. The impact of an uncontrolled disclosure of such information can only be estimated on the basis of previous occasions when offenders whose whereabouts are unknown have re-offended.

As far as the police service is concerned, the protection of the community must and will always take precedence over information provision. We would be failing in our duty to protect all members of the public, regardless of whom they are, should one person suffer as a result of a disclosure under this legislation.



On this basis and for the reasons outlined above, the balance is firmly tilted towards non-disclosure.

A full copy of the Freedom of Information Act (2000) can be viewed on the 'Office of Public Sector Information' web-site;

<http://www.opsi.gov.uk/>

Suffolk Constabulary is not responsible for the content, or the reliability, of the website referenced. The Constabulary cannot guarantee that this link will work all of the time, and we have no control over the availability of the linked pages.



Your Right to Request a Review of Decisions Made Under the Terms of the
Freedom of Information Act (2000).

If you are unhappy with how your request has been handled, or if you think the decision is incorrect, you have the right to ask Suffolk Constabulary to review their decision.

Ask Suffolk Constabulary to look at the decision again.

If you are dissatisfied with the decision made by Suffolk Constabulary under the Freedom of Information Act (2000), regarding access to information, you must notify Suffolk Constabulary that you are requesting a review within 20 days of the date of its response to your Freedom of Information request. Requests for a review should be made in writing and addressed to:

*Freedom of Information Decision Maker
Information Management Department
Suffolk Constabulary
Police Headquarters
Martlesham Heath
Ipswich
Suffolk
IP5 3QS
OR
Email: information@suffolk.pnn.police.uk*

In all possible circumstances Suffolk Constabulary will aim to respond to your request for us to look at our decision again within 20 working days of receipt of your request for an internal review.

The Information Commissioner.

After lodging a request for a review with Suffolk Constabulary, if you are still dissatisfied with the decision, you can apply to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at www.ico.org.uk or contact them at the address shown below:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700