



5th March 2018

Freedom of Information Request Reference N^o: FOI 000342/18

I write in connection with your request for information received by the Norfolk and Suffolk Constabularies on the 22nd January 2018 in which you sought access to the following information:

I understand that several police forces use, or have used, the financial credit checking company Equifax.

I would like a copy of all emails with the keyword 'Equifax' in the subject line or body of the text, sent and received by the individual responsible for your force's Economic Crime Department (or similar, for example 'director/head of fraud and economic crime unit'), for the period July 1 2017 to December 1 2017.

- This includes any correspondence to the above emails
- And any attachments to the above emails

If documents are redacted to protect third parties, I expect you to release all non-exempt material, not withhold the data outright.

To clarify, I have asked for specific emails sent and received by one person over a five month period. As I have asked for easily searchable emails sent by only one person over such a short period, I do not expect this to be an onerous request.

Response to your Request

The response provided below is correct as of 22nd January 2018.

Norfolk and Suffolk Constabularies have located the attached information as relevant to your request. Information has been redacted due to exemptions within the Act.

Section 17 of the Freedom of Information Act 2000 requires that Norfolk and Suffolk Constabulary, when refusing to provide such information (because the information is exempt) are to provide you the applicant with a notice ban 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 43(2) – Commercial Interests**
- **Section 40(2) – Personal Information**

Section 40(2) – whilst section 40 is a class based absolute exemption and there is no requirement to consider the harm or public interest, there is a requirement under sub-section 40(2), if the information requested relates to a third party, to articulate why disclosure would breach the Data Protection Act principles. The exemption at section 40(2) is relevant if the release of the personal information would be a breach of any of the 8 principles of the Data Protection Act 1998.

Personal data means data that relates to a living individual who can be identified from that data or from that data and other data that is in the possession of, or likely to come into the possession of, the data controller.

Principle 1 of the Data Protection Act states that personal data shall be processed fairly and lawfully.

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. When information is released, the response is published by Norfolk and Suffolk Constabularies on the force websites and is therefore available to anyone with internet access indefinitely. Therefore to release personal details of individuals, whose information is not already in the public domain, as part of their role, in a way in which they would not expect, is not considered 'fair'.

On the basis that personal data into the public domain, that could be linked to a living individual in a way that they would not expect, would not be fair and would be a breach of principle 1. This response letter serves as a refusal notice under section 17(1) of the Freedom of Information Act by virtue of the application of the exemption at section 40(2) of the Act, for these parts of your request

Section 43 is a qualified, prejudice based exemptions and as such we are obliged to articulate the harm that would be caused by providing this information and apply a public interest test.

Harm for section 43

Releasing specific pricing details of services supplied to the Constabularies, would damage the business relationship that exists between the providers and Norfolk and Suffolk Constabularies. It would provide other suppliers with useful information and would breach the confidentiality owed to third party suppliers. This would result in a disadvantage to future contractual relations with suppliers in the future.

Section 43 – factors favouring disclosure

There is a public interest in the transparency of how the Constabularies spend public funds. Disclosure of the requested information would provide the public with details of the rates that have been negotiated by the Constabularies, thus allowing the public to evaluate whether funds were being managed appropriately.

Section 43 – factors favouring non-disclosure

The commercial interests of current suppliers would be damaged if the rates were released to the public. The provision of the rates charged would hinder the ability of the current providers to negotiate with other customers, which would damage the commercial interests of our current providers.

Where a contracted service is subject to review and retendering, the rates and other specific information about a current contract should be withheld in order to preserve the Constabularies ability to negotiate best value for money contracts in the future.

Balance Test

The balance test is to determine if the benefits to the public outweigh the harm that would or may be caused if the information were to be disclosed. Whilst there is a need for openness and transparency regarding how public funds are being managed, it is essential that the Constabularies can negotiate rates in a competitive market place so that we obtain best value for public money. Publication of the prices would hinder the competitive nature of any future tendering process by allowing service providers to tailor their quotes based on what they know the Constabularies are currently paying, and on what they know their competitors are currently charging. This could result in an increased cost to the public purse.

As well as the commercial interests of the Constabularies, we have a duty to protect the commercial interests of third party suppliers by not publishing their commercially sensitive rates, and thereby allowing their market competitors to have access to information that they could use to their own advantage, and to the detriment of our suppliers.

It is our opinion that for these issues the balancing test for disclosure is not made out.

This letter serves as a refusal notice under Section 17 of the Freedom of Information Act for these parts of your request.

Partial NCND

Additionally Norfolk & Suffolk Constabularies can **neither confirm nor deny** whether it holds any other information with regard to an exempt body as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemption:

- **Section 23(5) Information Supplied by, or concerning, certain Security Bodies**

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest in this case.

This response will be published on the Constabularies web-site under the Freedom of Information pages:-

<https://www.norfolk.police.uk/about-us/our-data/disclosure-log>

<https://www.suffolk.police.uk/services/freedom-information/disclosure-logs>

Should you have any further queries concerning this request, please contact Amanda Gibson, FOI Decision Maker, quoting the reference number shown above.

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/>

Norfolk and Suffolk Constabularies are 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 the Norfolk and Suffolk Constabulary to review their decision.

Ask Norfolk and Suffolk Constabularies to look at the decision again.

If you are dissatisfied with the decision made by Norfolk and Suffolk Constabularies under the Freedom of Information Act (2000), regarding access to information, you must notify the Norfolk and 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
Norfolk Constabulary
Operations and Communications Centre
Jubilee House
Falconers Chase
Wymondham
Norfolk NR18 0WW
OR
Email: freedomofinformation@norfolk.pnn.police.uk*

In all possible circumstances Norfolk and 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 Norfolk and 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