



Freedom of Information Request Reference N^o: FOI 002316-18

I write in connection with your request for information received by Norfolk and Suffolk Constabularies on the 3 July 2018 in which you sought access to the following information:

“Please can you provide a copy of your Force Management Statement.”

Response to your Request

The response provided below is correct as of 3 July 2018

Norfolk and Suffolk Constabularies have considered your request for information and our response is below.

A copy of the Norfolk and Suffolk Force Management Statements are attached. Please note that certain information within these documents pertains to information that is highly sensitive with regards to operational policing, law enforcement capabilities, commercial sensitivities and future planning. As a consequence of this, the statements have been redacted with appropriate exemptions applied to ensure the disclosure is suitable for public review without impacting on current and future policing.

Section 1 of the Freedom of Information Act (FOI) 2000 places two duties on public authorities. Unless exemptions apply, the first duty at s1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at s1 (1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon s17 of FOIA requires that we provide 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 applies

The Constabularies can confirm that the information is held, however specific information has been redacted from the statements. This information is exempt from disclosure by virtue of the following exemptions:

- Section 23(1)** – Information supplied by, or relating to, security bodies
- Section 40(2)** – Personal Information
- Section 24(1)** – National Security
- Section 31(1)(a-c)** – Law Enforcement
- Section 36(2)(b)(c)** – Disclosure prejudicing the effective conduct of public affairs
- Section 38(1)** – Health and Safety
- Section 43(2)** – Commercial Interests

Section 23

In so far as Section 23 is applied, the redacted information relates to a security body listed within Section 23(3) of the FOIA, therefore there is an automatic exemption placed on this information. This exemption is an Absolute and Class based exemption and there is no requirement to consider the public interest.

Section 40

Section 40 has been applied with regards to the names of staff whom are neither in a public facing role, nor of sufficient seniority, to hold an expectation that their name will be disclosed. Additional application of this exemption is with regards to statistical information pertaining to Honour Based Abuse offences, an area of policing which is highly sensitive and to ensure disclosure does not detrimentally affect the victims, including the potential for their identification, disclosure is controlled by provision of statistics on a yearly basis incorporating all HBA categories.

Section 40 is an absolute; class based 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 the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

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 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.

Principle (a) of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. When considering this principle, we first consider the lawfulness aspect in the disclosure of an individual's name. Lawfulness refers to occasions where disclosure would not breach statute or common law obligations and in this case, we consider the Human Rights Act 1998. In the case of staff names, although names redacted from the disclosure will be of a professional capacity, an assessment must still be undertaken to establish whether their roles are

of a sufficiently high enough rank, or are within a public facing role, to ensure it is lawful to disclose their information into the public domain.

In a 2008 case concerning the 'Corporate Officer of the House of Commons' v the 'Information Commissioner', the high court stated that "'necessary' in Schedule 2 condition 6 of the Data Protection Act 1998, meant that there must be a pressing social need for disclosure. The request asks for the FMS itself and the addition of names will not add to the reports focus.

Any disclosure under FOI would be placed indefinitely into the public domain and would consequently result in people being able to identify them from this information. Purely as a result of their role, it would be a breach of their human rights as they would have had no expectation that personal information relating to them would be disclosed in this way.

With regards to the fairness aspect, the processing of information should be in a manner that individuals would reasonably expect, not in a way that could result in unjustified adverse effects on them. In this case, the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification considering their details are not currently publicised. Disclosure of a name can equally lead to an individual being misidentified from the disclosure.

Considering the provision of information concerning Honour Based Abuse (HBA), the Constabularies will publish annual statistics as a total figure for HBA, however no further breakdown of the data will be undertaken as a result of the serious nature of these offences and the protection owed to the victims. With regards to the Lawfulness aspect, an amendment to Section 71 of the Serious Crime Act 2015, (Section 4A and Schedule1) added anonymity to victims of female genital mutilation, a category of HBA, which states at 4A:

"This section ... make provision for the anonymity of victims of FGM. The provisions are modelled on those in the Sexual Offences (Amendment) Act 1992 which provides for a scheme to protect the anonymity of victims of certain sexual offences, such as rape. Paragraph 1 of new Schedule 1 to the 2003 Act prohibits the publication of any matter that would be likely to lead members of the public to identify a person as the alleged victim of an offence under the 2003 Act ... The prohibition lasts for the lifetime of the alleged victim. The prohibition covers not just more immediate identifying information, such as the name and address or a photograph of the alleged victim, but any other information which, whether on its own or pieced together with other information, would help identify the alleged victim."

It would thus follow that any disclosure of statistics that would lead to, or have the potential to, identify a victim of FGM, would not be lawful.

With regards all other aspects of HBA, victims are at significant risk and there is a high factor in the likelihood of future harm. The harm that could be caused to the victims of HBA by disclosure of information must not be underestimated. The Constabularies do not consider this would be fair to those persons and would most certainly be in breach of principle (a).

The Constabularies considers that the transparency element has been met by the provision of the information contained within the redacted statement.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original Policing requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel the principle (a) would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments.

This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.

Sections 24, 31, 36, 38, 43

Sections 24, 31 and 36 are a qualified based and prejudice based exemption and I am therefore obliged to consider the public interest.

Section 36 is a qualified and prejudice based exemption and requires Suffolk and Norfolk Constabularies 'qualified person' to give their reasonable opinion that disclosure would, or would be likely to, cause substantial harm to the Constabularies if disclosed.

Suffolk and Norfolk Constabularies qualified person is the Chief Constable, who has assessed the information and provided their opinion that the information excluded from this disclosure is fair.

Section 43 is a qualified and class based exemption, I am therefore required to consider the public interest.

Harm

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The FMS identifies information specifically relating to procedural, tactical and strategic areas of policing, which will invariably identify sensitive operational tactics, law enforcement capabilities and considerations / plans to police the threat posed national by terrorism. Any FOI disclosure must ensure that no strategically sensitive information is placed into the public domain and breach the security infrastructure of the United Kingdom.

Disclosure of information under the Freedom of Information Act 2000 (FOIA) is considered to be a release to the world, as once the information has been published on the Disclosure Log pages of the Constabularies external website and has no control over access to that information. Whilst not questioning an applicant's motive for requesting information, it could be of use to persons who are involved in criminal activity, including terrorism related activity.

Although there is a call for openness and transparency, this needs to be balanced against the harm in disclosure of the requested information. The Police Service has a clear responsibility to prevent and detect crime and disorder and to protect the communities we serve.

The prevention and detection of crime is the foundation upon which policing is built and the threat from terrorism cannot be ignored. It is generally recognised in this current environment that the international security landscape is increasingly complex and unpredictable. The current UK threat level from international terrorism, based on intelligence, is assessed as 'severe' which means that a terrorist attack is highly likely. <https://www.mi5.gov.uk/threat-levels>

Providing an un-redacted version of the FMS will reveal tactical capability and is likely to influence those involved in criminal behaviour, who are prepared to resort to the use of extreme force in order to avoid detection and capture. The data could be used to form part of a wider assessment of levels of protection afforded to key aspects of policing. Fully knowing police tactical options, strategic priorities and assessments will ensure offenders have sufficient information to anticipate and overcome the police response. The UK Police Service has a positive undertaking to protect the public from harm and that duty of care to all involved, must be the overriding consideration.

There has been evidence in the past of terrorist using information to formulate a planned attack on points of distinct vulnerability. The information resources they use to gather such includes that disclosed under FOI, media requests and physical investigation, all of which assist in the formulation of a picture which reveal areas of susceptibility.

The prevention and detection of crime is the foundation upon which policing is built and the police have a clear responsibility to prevent crime, arrest those responsible for committing crime or those who plan to commit crime. However, there is also a duty of care to the public at large. The UK Police Service has a positive undertaking to protect the public from harm and that duty of care to all involved, must be the overriding consideration.

Information contained within the statement consists of future planning, which if disclosed, could prejudice the Constabularies future ability to offer an effective public service, as precedence would dictate that information concerning future planning should be disclosed. The argument known as the 'chilling effect' infers that any disclosure made concerning future plans would inhibit the free and frank exchange of ideas to ensure the most effective police service is maintained and harm future deliberations. The Constabularies need to have 'space' to allow for plans to be made without the prospect of information being disclosed ahead of schedule under FOI disclosures.

It is for the reasons stated above that the exemptions at Sections 24, 31 and 36 are applied.

Public Interest Test

Section 24

Factors favouring disclosure

The provision of information pertaining to national security, would lead to a better informed public and therefore ensure more accurate public debate.

A fundamental purpose of FOI is the knowledge of how public funds are allocated to ensure the police service is held to account. The public are entitled to know how public funds are utilised and where resources are distributed within this area of policing.

Factors favouring non-disclosure

The personal safety of the public is inextricably linked to national security and any information that could identify vulnerabilities would not be disclosed. Information regarding the Constabularies strategic intentions would demonstrate the Constabularies principle focus and objectives, consequently highlighting areas of decreased operational attention. This will in turn provide those intent on committing such acts of terrorism with specific information regarding the way in which operations will be managed in the future. Thus providing information that could hinder any future Law Enforcement techniques, leaving us vulnerable to repercussion. All UK police forces have a duty to fulfil their national security functions and it is considered that the disclosure of this information would increase the risk to the safety of the public.

The provision of this information on a national scale could alert those persons involved in terrorist activity as to work being undertaken nationally by Constabularies to effectively manage the threats posed, such detailed information would allow criminal to take steps to avoid detection. This would render national security measures less effective and compromise any ongoing or future operations, and would be highly damaging to national security.

The information would provide a national picture of where work is being undertaken, creating a mosaic effect on data disclosure and allowing criminals to map together information to target identified weaknesses. This would clearly hinder the Constabularies effectiveness to enforce the law and place risk on National Security.

Section 31

Factors favouring disclosure

Disclosure of this information would enable the public to know whether the Constabularies have the appropriate capabilities to deal with future challenges.

There is a public interest in the community being made aware of how Constabularies ensure the communities' safety is sustained. This will ensure complete openness and transparency as there is often speculation and rumour with regard to the use of certain tactical options, such as firearms, within the Police Service. This information would go some way to ensuring that debates around these issues are accurate.

Provision of the information will provide the public with a better understanding of this type of offence, including the prevalence of such crimes within the county. This in turn would increase confidence by identifying how the Constabularies are using all available law enforcement options, in order to tackle criminal activity and detect offenders.

Factors favouring non-disclosure

The disclosure of sensitive tactical and strategic options will identify information concerning operational sensitivities, providing an understanding to the criminal fraternity of the Constabularies capabilities, future planning processes and decision making matrices. Strategic intentions, operational planning and tactical options are designed around specific policing requirements.

Disclosure would allow criminals to consider any force vulnerabilities, identifying whether the Constabularies are working to full capabilities, placing the Constabularies at a disadvantage and enabling criminals to be more aware and tactically astute.

The personal safety of the public is inextricably linked to national security and any information that could identify vulnerabilities would not be disclosed. The risk to public safety cannot be ignored and Constabularies have a responsibility to ensure safety of individuals is protected at all times.

The redacted information would place information into the public domain which could be exploited by those intent on committing crime. This would have a direct impact on law enforcement capabilities, increasing fear of crime in the communities and leading to policing tactics being compromised by criminals who could utilise the information to avoid future detection by changing their methods.

Section 36

Factors favouring disclosure

The information contained within the disclosure contains information relating to future efficiency savings, in accordance with Police and Crime Commissioners Medium Term Financial Plan, and improved working processes to effectively manage policing requirements. Provision of information that identifies how the Constabularies are adapting, will ensure the public is fully apprised that the Constabularies are undertaking substantial work to ensure budgetary pressures are managed effectively, whilst ensuring policing capabilities are preserved.

The substance of the information may be considered by the public to be of importance and public debate could be informed by its disclosure.

Factors favouring non-disclosure

Norfolk and Suffolk Constabularies are each still required to deliver substantial savings. As a consequence, the Norfolk, Suffolk and Collaborative programmes are being considered to identify where savings can be made. The work involved in the 2020 (Norfolk) and 2025 (Suffolk) programmes are significant and relies on the ability of the Constabularies to discuss its options whilst continuing to offer an effective public service. Disclosure of information that is in planning stages can cause disruption by the diversion of resources in managing the impact of disclosure.

It is imperative that the Constabularies are able to assess options to meet demands, prior to any public confirmation of any necessary adjustments. It is the ability of the Constabularies to be able to discuss options freely, that enables positive discussions and debates of any such changes. It would not meet the interests of the public if information were disclosed prior to its finalisation, if to do so would have an adverse effect on policing.

In tribunal case ***McIntyre v Information Commissioner and the Ministry of Defence (EA/2007/0068, 4 February 2008)***, the Information Tribunal said at paragraph 25: “...*this category of exemption is intended to apply to those cases where it would be necessary in the interests of*

good government to withhold information, but which are not covered by another specific exemption, and where the disclosure would prejudice the public authority's ability to offer an effective public service or to meet its wider objectives or purposes due to the disruption caused by the disclosure or the diversion of resources in managing the impact of disclosure”.

Section 38

Factors favouring disclosure

The release of information would provide an insight into the Police Service and enable the public to have better understanding of its effectiveness. The public would be informed and be able to participate in accurate public debate.

Factors favouring non-disclosure

The release of information will identify future planning options, which may have a detrimental impact on existing staff. Such a disclosure would impact the efficient and effective conduct of service should employees consider the information to have a bearing on their role.

Section 43

Factors favouring disclosure

Where Public funds are being spent, there is a public interest in accountability and justification. In this case to provide information concerning specific contracts and the details contained within would show we are open and transparent, one of the fundamental principles of the Act. The information would demonstrate specific details concerning procurement processes.

Factors favouring non-disclosure

Third party interests might be jeopardised by the release of information that relates to sensitive commercial information and consequently could provide a competitive edge to other suppliers.

This exemption relates to third party companies whose process and procedures may be jeopardised by the disclosure of information supplied for the sole purpose of assisting the Constabularies. In this case specifically, the information we have removed relates detailed descriptions of information supplied to us by the suppliers, including numbers and costings. Disclosure of such information would provide an unfair commercial advantage to other suppliers, as their costs can be compared to previous quotes which would present an unfair advantage and may result in prejudiced costs being put forward.

The Constabularies would not wish to prejudice any relations with third parties in the future and jeopardise our tried and tested procurement processes.

Balance Test

There is a public interest in the transparency of police use of resources and providing assurance that the Police Service is appropriately and effectively utilising its capabilities. It is also recognised that there is a strong public interest in knowing that policing activity with regard to the delivery of law enforcement is appropriate and balanced. A fundamental aspect of the FOI is to ensure the public are aware of how resources are distributed and effectively managed; provision of the FMS will ensure this public confidence is maintained.

As much as there is a public interest in knowing that the delivery of law enforcement is appropriate and balanced, this will only be overridden in exceptional circumstances. Public safety is of paramount importance and any information which would place individuals at risk and compromise the National Security of the United Kingdom, no matter how generic, is not in the public interest. The effective delivery of operational law enforcement is crucial and of paramount importance to Constabularies. Any disclosure would have a negative impact on law enforcement.

Should all forces provided unreacted FMS and coupled with information already available, a Mosaic picture could be built allowing for criminals to target certain areas and prejudice the prevention and detection of crime.

The constabularies consider that the public interest has been fulfilled by the disclosure of the redacted FMS and can see no additional policing benefit on the provision of those redacted elements for the reasons identified above.

Therefore it is our opinion that for these reasons the balance test for disclosure is not made out for the relevant redacted aspects of the response.

Should you have any further queries concerning this request, please contact Clair Pack, 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
Suffolk Constabulary
Police Headquarters
Martlesham Heath
Ipswich
Suffolk
IP5 3QS
OR
Email: information@suffolk.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