

Freedom of Information Request Reference N°: FOI 003141-18

I write in connection with your request for information received by Suffolk Constabulary on the 29 August 2018 in which you sought access to the following information:

1. *“For the 48 hour period of 31st October to 1st November 2017, a record of all crime reports you received that mentioned the phrase 'trick-or-treat' or 'trick or treat'.*

For each one, please detail:

- *the police division/local policing unit/neighbourhood in which it took place*
- *the time it was reported*
- *a description of the incident*
- *the crime outcome*

Please conduct this search of your records with and without hyphens for 'trick or treat'.

Please begin the search at 00:00 on 31st October and end it at 23:59 on 1st November.

2. *A record of all crime reports you received where people were wearing fancy dress costumes for the last 3 financial year (2015/16, 2016/17, 2017/18).*

I would like the following details for each incident:

- *The date and location of the incident*
- *The type(s) of fancy dress costume(s) involved*
- *The nature of the incident - e.g. suspicious circumstances, criminal damage - and,*
- *if possible, a brief description of what occurred.*
- *The outcome of the incident - e.g. whether anybody was arrested, cautioned etc.”*

Response to your Request

The response provided below is correct as of 11 September 2018

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

A search has been completed of the Constabulary's crime system for all offences recorded that contain one the following words/phrases: “trick or treat”, “trick-or-treat”, “fancy dress”, “fancy-dress” and “costume”.

1. For the time frame 31 December 2017 – 2 November 2017 (trick or treat), there were no offences reported that contained any of the words or phrased listed above.
2. For the time frame 1 April 2015 – 31 March 2018 (fancy dress), there was one crime report recorded that mentioned the word 'Fancy Dress', as follows:



- October 2016 – Stowmarket area
- Halloween costume – no further details
- Rape
- Section 40/44
- Type 15 – Named suspect identified – Evidential difficulties

The details of the offence and the specific date have not been provided as a result of exemptions within the Act.

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.

By law, all victims of rape and other sex crimes, including children, are automatically guaranteed anonymity for life from the moment they make a complaint that they are the victim of a sex crime. This anonymity was once given only to victims of rape however; the Sexual Offences Act 1992 extends to victims of most other sexual offences. Therefore, it is the duty of the Constabulary to ensure this anonymity is not breached by a perceived risk of identification.

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 the specific date and description, when coupled with the location (in this case the ward) of the offence. The information pertains to special category data owing to the fact it relates to information concerning an individual investigation, which could identify a person's involvement with an offence. Lawfulness refers to occasions where disclosure would not breach statute or common law obligations.



In this case we consider the Human Rights Act 1998. Suspects and victims would not expect details to be processed in response to an FOI request, which may inadvertently identify their involvement with an offence. It is recognised that crime mapper published street level crime, however sexual offences are not broken down by individual offence type, rather are all categorised as 'sexual offence'. None the less, the provision of the date and description, will allow for a direct comparison to be made with crime mapper to try and establish where an offence occurred and potentially who the victims and suspects were. The Constabulary therefore consider it would be in breach of their Human Rights Act by disclosing details of an offence that may identify them or the victim and therefore disclosure would not be lawful.

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. Disclosure of this nature can equally lead to an individual being misidentified from the disclosure. The Constabulary has a duty to ensure data is processed in accordance with Data Protection Legislation. We feel in this occasion, it would not be fair to process this data outside of usual policing processes.

The Constabulary considers that the transparency element has been met by the provision of the information within the response.

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 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.

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