



23rd October 2019

Freedom of Information Request Reference N^o: FOI 003488/19

I write in connection with your request for information received by the Norfolk and Suffolk Constabularies on the 26th September 2019 in which you sought access to the following information:

- 1 For the 15 hour period of 31st October to 1st November, a record of all crime reports you received in each of the last three financial years (2016/17, 2017/18, 2018/19) that mentioned the phrase 'trick-or-treat' or 'trick or treat'.
For each one, please detail:
 - A the police division/local policing unit/neighbourhood in which it took place
 - B the time it was reported
 - C a description of the incident
 - D the crime outcomePlease conduct this search of your records with and without hyphens for 'trick or treat'.
Please begin the search at 17:00 on 31st October and end it at 08:00 on 1st November.

- 2 The number of crimes recorded you received between 17:00 on 31st October and 08:00 on 1st November in each of the last three financial years (2016/17, 2017/18, 2018/19)
For each one please detail:
 - A the police division/local policing unit/neighbourhood in which it took place
 - B the time it was reported
 - C a description of the incident
 - D the crime outcome

- 3 A record of all crime reports you received between 00:00 on 31st October and 23:50 on 1st November in each of the last three financial years (2016/17, 2017/18, 2018/19) where people were wearing fancy dress costumes for the last 3 financial year (2016/17, 2017/18, 2018/19).
I would like the following details for each incident:
 - 1 The date and location of the incident
 - 2 The type(s) of fancy dress costume(s) involved
 - 3 The nature of the incident - e.g. suspicious circumstances, criminal damage - and, if possible, a brief description of what occurred.
 - 4 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 9th October 2019.

Norfolk and Suffolk Constabularies have located the attached information as relevant to your request.

Research has been undertaken of recorded crimes which were reported between the times and dates requested. We have provided the time, crime type, district and outcome for each report.

Further details of the crime reports have not been provided due to exemptions within the Act.

Section 17 of the Freedom of Information Act 2000 requires that Norfolk and Suffolk Constabularies, when refusing to provide such information (because the information is exempt) is 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 exemptions:-

- **Section 40(2) – Personal Information**
- **Section 44(1) – Prohibitions on disclosure**
- **Section 30(1) – Investigations**

Section 40 and 44 are absolute; class-based exemptions.

Information 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 exempt 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.

By law, all victims of rape and other sex crimes 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.

Principle a of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. In this case the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification, or equally led to an individual being wrongfully identified as a consequence.

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.

The information already provided relates to a very specific period of time and therefore providing any further details could result in the identification of those involved.

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

These are absolute, class-based exemptions and, as such, there is no requirement to consider the public interest test.

Section 30 is a class based qualified exemption and requires a public interest test to be considered.

Section 30 – Factors favouring disclosure

Openness and transparency are fundamental aspects of the Freedom of Information Act. The release of the requested information would ensure that the public are in possession of accurate information which would be a positive factor.

Disclosure would enhance public confidence that investigations are managed appropriately by the Constabularies. There is a significant public interest in the way in which the Constabularies carry out investigations as these are conducted using public funds.

Section 30 – Factors against disclosure

Information which relates to investigations will rarely be disclosed under the FOI Act. The section 30 exemption acknowledges that there is a public interest in recognising the importance for the proper conduct of investigative processes and procedures, carried out by public authorities.

Where an investigation has not yet resulted in a successful prosecution, specific details are less likely to be released as they may assist an offender, by identifying whether or not an offence has been reported and is under investigation.

Victims and witnesses may be less likely to provide information to the Police if they believe the details may be released as a result of a Freedom of Information Act request. This would be detrimental to the investigative process which heavily relies on information being received from members of the public.

Balance Test

It is recognised that there is a public interest in investigations carried out by the Constabularies. The Constabularies Press Office will make disclosures in a timely and ordered manner, to ensure any disclosures assist the Police in their enquiries. However, this does not necessarily mean that it would be appropriate for the Constabularies to release information regarding investigations under the Freedom of Information Act.

It is essential that investigations can be conducted without them being compromised by the release of details, which may compromise the integrity of the investigative process.

It is also vital that the Constabularies continue to receive information from the public to assist with enquiries. The Constabularies would not want to jeopardise this process by losing the confidence of victims and witnesses who feel that their information may be released under the Act.

It is therefore my opinion that the balance lies in favour of non-disclosure of this information, at this time. This serves as a refusal notice under section 17(1) of the FOI Act for these parts of your request by virtue of the exemption at section 30(1).

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 40 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