



27th November 2018

Freedom of Information Request Reference N^o: FOI 004005/18

I write in connection with your request for information received by the Norfolk and Suffolk Constabularies on the 26th October 2018 in which you sought access to the following information:

The request relates to the use of spit guards (also referred to as 'spit hoods' or 'spit and bite guards' – please assume all questions relate to each term) within the Norfolk Constabulary, and infectious disease sustained by officers in the course of their duties and is:

- 1 For the provision of the number of officers who have contracted infectious disease as a result of biological fluid contamination or needle stick injury or bites from humans in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 2 For the provision of the final medical diagnoses of such infections in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 3 For the provision of the number of officers who have contracted infectious disease as a result of having been spat at by a detainee in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 4 For the provision of the number of officers who have contracted infectious disease as a result of needlestick injury in the course of their duty in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 5 For the provision of the number of officers who have contracted infectious disease as a result of bites from humans in the course of their duty in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 6 For the provision of the number of officers who have required prophylactic treatment for infection as a result of having been spat at by a detainee in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 7 For the provision of the number of officers who have required prophylactic treatment for infectious disease as a result of needlestick injury in the course of their duty in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)
- 8 For the provision of the number of officers who have required prophylactic treatment for infectious disease as a result of bites from humans in the course of their duty in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)

Additionally:

- 9 Does your police service use spit guards?
- 10 If yes to Question 9, when were they approved for use and by whom?

- 11 If yes to Question 9, did your police service undertake any form of assessment of the spit guards prior to operational use. If yes, please provide copies of the assessment.
- 12 If yes to Question 9, what is the brand and manufacturer of spit guard that is used?
- 13 On how many occasions in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date) have spit guards been used on detainees?
- 14 Have there been any adverse occurrences to detainees when spit guards have been deployed in the years 2013, 2014, 2015, 2016, 2017, and 2018 (to date)?
- 15 Please provide copies of any training materials used to train officers in the use of spit guards.

Response to your Request

The response provided below is correct as of 15th November 2018.

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

Information relating to questions 1-8 has been provided by the Workplace Health Department.

Q1-5 The Constabularies have had no reported cases from Police Officers.

Q6 Number of officers requiring prophylactic treatment as a result of being spat at; please note joint figures below:-

YEAR	NORFOLK / SUFFOLK
2013	0
2014	0
2015	1
2016	1
2017	0
2018	1

Q7 Number of officers requiring prophylactic treatment as a result of needlestick injury; please note joint figures below:-

YEAR	NORFOLK / SUFFOLK
2013	0
2014	5
2015	2
2016	1
2017	0
2018	1

Q8 Number of officers requiring prophylactic treatment as a result of being bitten by a human; please note joint figures below:-

YEAR	NORFOLK / SUFFOLK
2013	0
2014	1
2015	1
2016	0
2017	0
2018	1

Q9 Yes, the Constabularies use spit guards. Suffolk Constabulary introduced them during 2009 and they were briefly taken out of circulation during 2012. These were reintroduced in 2013.

Norfolk Constabulary introduced them into Custody in 2014 and to patrol officers in 2015.

Q10 Please see attached Joint Chief Officer Team document – Use of Spit Hoods Outside of Custody Suites.

Q11 Please see attached risk assessment documents.

Q12 Spit guards are purchased from Tactics Personal Safety Ltd. No specific brand name known.

Q13

YEAR	NORFOLK	SUFFOLK
2013	Not used	12
2014	11	25
2015	23	4
2016	54	28
2017	68	45
2018	50	29

Q14 No relevant information is held.

Q15 Please see attached training documents.

An internal URL has been removed from the documents provided and figures regarding the cost of spit guards have been removed, due to exemptions within the Act

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

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 ban, which:-

- (a) States that fact
- (b) Specifies the exemptions in question, and
- (c) States (if that would not otherwise be apparent) why the exemptions apply

The information is exempt from disclosure by virtue of the following exemptions:-

- **Section 31(1)(a)(b) Law Enforcement**
- **Section 43(2) Commercial Interests**

Section 31 is a qualified prejudice based exemption and therefore we are obliged to consider the harm in disclosure and conduct a public interest test.

Section 43 is a qualified class based exemption and we are therefore obliged to conduct a public interest test.

Section 31 – Law Enforcement

Evidence of Harm

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Providing internal URLs would be a release of technical information of a part of the Constabularies network to the public as a whole. This could lead to a security risk of Constabulary systems.

Factors favouring disclosure

Disclosure would show openness and transparency which is the fundamental basis of the Freedom of Information Act.

Factors against disclosure

Disclosure could provide those intent on disrupting police activities with useful information to assist in planning an attempt to access force systems. This would be detrimental to the effective operation of police activities.

If the public believed that the Constabularies were releasing information that could be used to undermine the security of force systems, this could result in reduced public confidence in the way the Constabularies manage their information security.

Balance Test

It could be argued that this link would not be accessible to individuals outside of the force network and therefore there would be no harm in disclosure. Due to this reason, there is also little public interest in providing this link as it is not accessible. However, the details of the link could provide information that would be useful to individuals who are interested in attacking force systems, in order to disrupt the Constabularies law enforcement capabilities.

Section 43 – Commercial Interests

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 are being managed appropriately.

Factors against 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.

Section 40(2) – Personal Information

Names of individuals have been removed from the documents and the exemption at section 40 (personal information) engaged.

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. In this case the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification.

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.

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