



Freedom of Information Request Reference N°: FOI 000285-21

I write in connection with your request for information received by Suffolk and Norfolk Constabularies on 26 January 2021 which you sought access to the following information:

"I found that from 2019-2020, West Yorkshire Trading Standards referred 13 victims in the illegal tobacco supply chain to the NRM.

([https://awardsv2.hgl-content.co.uk/Content/awards/Documents/1218/MJ Awards App Cheap Illicit Tobacco Team.pdf](https://awardsv2.hgl-content.co.uk/Content/awards/Documents/1218/MJ_Awards_App_Cheap_Illicit_Tobacco_Team.pdf))

In light of this, I would like to be provided with the following information:

In the year 2020 how many NRM referrals did this police force make about victims involved in the illegal tobacco supply chain?

For each of these instances I would like to know:

The date of referral

Age of the victim

Gender of the victim

Any records which further detail the involvement of the victim in the illicit tobacco supply chain (e.g were they selling the tobacco).

Their nationality"

Response to your Request

The response provided below is correct as of 3 February 2021

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

A search has been undertaken of the Constabularies NRM referrals during the 2020 calendar year, concerning victims involved in the illegal tobacco supply chain.

There were no relevant NRM referrals identified as recorded by Suffolk Constabulary.

There were 4 relevant NRM referrals identified as recorded by Norfolk Constabulary.

Please be aware that the information provided above has been extracted based on the type of exploitation the NRM is recorded to have been. Victims may have been exploited in respect of many different commodities or types of exploitation, of which illegal tobacco supply is one. Dependent on the type of exploitation the Officer recorded, depends on what the search parameters will locate.

NRM referrals are made via a digital submission to the Single Competent Authority (SCA) within the Home Office. It may be more appropriate to request the data from the Home Office directly, in order to obtain an accurate national dataset.

Further details of those referrals have not been supplied as a result of 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) are 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 38(1) – Health and Safety

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. The numbers relevant to the request are extremely low and when considering that Norfolk is a small force, it would not be difficult for persons to be identified from the disclosure, by those who are aware of the information concerning the exploitation. This is particularly relevant in this case as the request is confined to a specific strand of exploitation, being the illegal tobacco supply chain.

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.

Section 38 is a prejudice based qualified exemption and requires the consideration of harm and the public interest.

Harm

Disclosures concerning details of NRM disclosures are carefully assessed to ensure that there can be no detrimental effect on the victims. Victims are generally very vulnerable and the Constabularies need to ensure the data is handled sensitively and in a manner that will not cause any further distress.

It is on the above basis that the Constabularies consider the provision of the additional information will detrimentally effect the health and safety of the victims.

Public Interest Test

(When applying a qualified exemption a public authority is required to consider whether 'in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information')

Favouring Disclosure

Investigations are expensive and the provision of information relating to NRM will ensure the public are well informed as to the way in which the Constabularies manage such referrals and allocate finances appropriately and effectively.

National data is published quarterly and forces have previously provided more localised data on an annual basis. This request is for annualised information and therefore will not identify specific details concerning when the 4 cases took place, reducing the probability of an individual being identified.

Favouring Non-Disclosure

In addition to the risk identifying highly vulnerable individuals, it is very likely their physical health and safety will be placed at risk from criminal groups, whom are aware of the cases and can identify those victims from this disclosure.

The harm would be lessened if the data related to all NRM referrals, but limited to a low number within a specifically requested category heightens the risk of an individual being identified and their safety being compromised.

Balancing Test

It is recognised that there is information in the public domain concerning NRM referrals.

However, the victims of these referrals are vulnerable and the Constabularies would not wish to provide any information that may compromise their safety and risk their identification being exposed.

Having weighed up the factors favouring disclosure and those favouring non-disclosure, I have decided that the balance lies with non-disclosure.

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 40 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