



David Dunne
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Force Security Manager

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Date: 25th September 2009

Dr K J Hamer

Dear Dr Hamer

Reference No: IR2009000013

As the Force Security Manager, it is my role to carry out an internal review of your original FOI request. In line with your request, I have carried out an internal review of the Force's response to your application under the Freedom of Information Act (FOIA).

Firstly, may I apologise for the delay in responding to your request for an internal review. The delay was due to a number of internal circumstances.

I have considered your request for the information that was not provided in our original response. It is my view that this information qualifies for exemption under the following exemptions.

Section 30(1)(2) – Investigations and proceedings conducted by a public authority.
Section 31(1) – Law Enforcement
Section 40(2) – Personal Data

Section 40 is a class based absolute exemption and as such the legislators have identified that there would be harm in disclosure and there is no need to evidence this or carry out a public interest test.

Section 30 and 31 are prejudice based qualified exemptions which require the prejudice (harm) to be evidenced and a public interest test to be carried out.

Harm in relation to prejudice based exemptions

Several types of harm may be generated by the disclosure of the information you have requested.

Some of the information you have requested relates to law enforcement and investigations. Police investigations may be compromised when the information contributes to the disclosure of a specific incident(s).

Public interest considerations favouring disclosure:

Accountability - when information disclosed relates directly to the efficiency and effectiveness of the force or its officers. The purpose of the Freedom of Information Act is to make public authorities more accountable and this factor, therefore, may be applied to a wide range of scenarios from how an individual or the force fulfils their role or function, to policy decisions that have been taken in relation to investigations or general policy issues. In this case, forces may be obliged to demonstrate to the general public that they are actively involved in the prevention and detection of crime.

Public debate - where release of information would contribute to the quality and accuracy of public debate. This factor applies where the release of accurate information will inform and enhance public debate on particular subjects that may be topical. In this case the release of accurate information may inform public debate and boost levels of confidence within the community.

Public interest considerations favouring non-disclosure:

Investigations - It is the Association of Chief Police Officer's approach that information relating to an investigation will rarely be disclosed under the provisions of the Freedom of Information Act. Whilst such information may be released in order to serve a 'core policing purpose' – to prevent or detect crime or to protect life or property - it will only be disclosed following a Freedom of Information request if there are strong public interest considerations favouring disclosure. The further the considerations favouring disclosure are from a core policing purpose, the lighter the considerations will be.

Interests of third parties - where third party interests might be jeopardised by release of information that relates to personal affairs of individuals and/or sensitive information held. In this case, law enforcement and any investigation may be compromised by disclosure, as may third party data protection rights.

Balancing Test

Information for an investigation comes from a wide variety of sources. In most cases this information is provided in confidence or at least on the basis that it will be used for the purposes of that investigation and not for disclosure to the world in general. The FOIA is quite rightly applicant blind and the release of any information is made to the world. That was not a concept in the minds of information providers at the time they co-operated with the Police. Although it could be argued that the type of cases, of which your request is typical, attract local and sometimes national publicity and are heard in open court, that is not the same as physical copies of the information being published.

In this case, there are factors favouring disclosure and non-disclosure. On balance I would contend that the public interest in disclosing the information is outweighed by that in maintaining the exemptions listed.

Bearing in mind that disclosure made under the Freedom of Information Act is disclosure into the public domain; the public interest is not what interests the public, but what will be beneficial to the community as a whole. It is not in the public interest to disclose information that may compromise the force's ability to fulfil its core function of law enforcement.

It is my decision, therefore, that in this case the public interest test balance favours non-disclosure.

If you are not satisfied with my response, you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Freedom of Information Act 2000.

For information on how to make application to the Information Commissioner, please visit their website at www.informationcommissioner.gov.uk or alternatively you may phone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
WILMSLOW
Cheshire SK9 5AF
Tel: 01625 545700

Yours sincerely

David Dunne
Chief Inspector