



Our Ref: 0790.2017-18
Your Ref:
Date: 19 December 2017

Civil Disclosure
Joint Corporate Legal Services

Marc Horn
request-440398-6cdf1691@whatdotheyknow.com

Dear Mr Horn,

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 0790.2017-18

I write in connection with your request for information which was received by North Yorkshire Police on 23 October 2017. Please accept our apologies for the delay in providing you with a response. I note you seek access to the following information:

1) In regards policing of KM8 fracking site please provide the following data since the start of operation Kingfisher.

By Date: a) number of arrests by charge, b) number of people charged following arrest, c) number of people charged for different charges than arrested, d) number of people charged that have been convicted in court, e) number of charges that were dismissed.

Extent and Result of Searches to Locate Information

To locate the information relevant to your request searches were conducted within North Yorkshire Police.

I can confirm that the information you have requested is held by North Yorkshire Police.

Decision

1) I am exempting the provision of information in relation to your request pursuant to sections 21 – Information Reasonably Accessible to the Applicant by Other Means and 22 – Information Intended for Future Publication.

Section 17 of the Act requires North Yorkshire Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies. Please see the relevant exemption headers below for further information.

Exemptions Explained

Section 21 – Information Reasonably Accessible to the Applicant by Other Means

Section 21(1) is an absolute class based exemption. This means that if the requested information is held by the public authority, and it is reasonably accessible to the applicant by other means, it is not subject to the public interest test.

This exemption applies as part of the requested information has been deemed already reasonably accessible by other means. Please refer to the following for relevant information;

<https://www.nypkirbymisperton.org/>

Section 22 – Information Intended for Future Publication

Information is exempt pursuant to Section 22(1) if, at the time when the public authority receives a request for it: the public authority holds the requested information; the public authority, or any other person, intends the information to be published at some future date, whether that date is determined or not; and in all the circumstances it is reasonable to withhold the information until its planned publication.

Section 22 is a qualified class based exemption, which means that consideration must be given to the public interest in disclosure or non-disclosure of the information, but there is no requirement to demonstrate any harm that may occur in the event of the information being disclosed. It is recognised that it must be reasonable in all the circumstances to withhold the information until the date of publication.

Factors favouring Disclosure

Disclosure now would allow immediate access to the information and sooner inform the public on how public money is being spent, outlining the decision making of North Yorkshire Police (NYP). It is noted that the subject matter has drawn considerable public interest and disclosure would promote openness and transparency.

Factors favouring non-Disclosure

NYP formulated a publication strategy in anticipation of the public interest in Operation Kingfisher. This strategy outlined what information the force were intending on disclosing to the public and arrest data was included as part of this. Part of this data is already being routinely published by the force (refer to section 21) which evidences NYP's intention to publish.

Disclosure now as part of this FOI Act request would unnecessarily duplicate workload. The intended publication of information will be prepared at some expense to North Yorkshire Police and the spending of additional public funds on early disclosure of information would be inefficient. It would be fair to withhold the information until any relevant investigations have been conducted and it is deemed safe to disclose via the appropriate media channels.

Balancing Test

A decision has already been taken to publish this information prior to the request being received. This process is in accordance with a planned publication strategy which will include an executive summary report which will provide over and above the information being requested. Requesting earlier disclosure of the information would duplicate workload and would result in additional spend of public money. There is public interest in the information being disclosed, however this should be

done when it has been thoroughly examined and tested prior to any external scrutiny therefore it is my decision to withhold the information.

It is noted that further information relevant to this request has since been published after the receipt of this FOI request. The relevant information can be found at the following web address; <https://www.nypkirbymisperton.org/policing/arrests/>

Pursuant to Section 17(1) of the Act this letter acts as a Refusal Notice in response to your request. Please note that systems used for recording information are not generic, nor are the procedures used locally in capturing the data. It should be noted therefore that this force's response to your questions should not be used for comparison purposes with any other responses you may receive.

Complaint Rights

Your attention is drawn to the attached sheet which details your right of complaint.

If you have any queries concerning this request, please contact me quoting the reference number above.

Yours sincerely

Robert Bates
Legal Officer (Civil Disclosure)
Joint Corporate Legal Services
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COMPLAINT RIGHTS

Are you unhappy with how your request has been handled or do you think the decision is incorrect?

You have the right to require the North Yorkshire Police to review their decision.

Prior to lodging a formal complaint you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again –

The quickest and easiest way to have the decision looked at again is to telephone the case officer that is nominated at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

Complaint

If you are dissatisfied with the handling procedures or the decision of the North Yorkshire Police made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the North Yorkshire Police to have the decision reviewed. North Yorkshire Police must be notified of your intention to complain within 2 months of the date of its response to your Freedom of Information request. Complaints should be made in writing and addressed to:

Force Solicitor and Head of Legal Services
North Yorkshire Police
Alverton Court
Crosby Road
Northallerton
North Yorkshire
DL6 1BF

In all possible circumstances the North Yorkshire Police will aim to respond to your complaint as soon as practicable but within 20 working days.

The Information Commissioner

After lodging a complaint with North Yorkshire Police if you are still dissatisfied with the decision 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 Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk>. Alternatively, phone: 0303 123 1113 or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF