

Our Ref: 475.2016-17

Date: 09 September 2016

Neil Wilby
request-353604-479ad2a5@whatdotheyknow.com



Police and Crime
Commissioner
North Yorkshire



Dear Mr Wilby,

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 475.2016-17

I write in connection with your request for information which was received by North Yorkshire Police on 22 August 2016. I note you seek access to the following information:

I refer to the widely publicised sexual risk order case in which your force has come in for widespread criticism from the court, the press, broadcasters and leading lawyers:

Please provide the following information:

- 1 Name(s) of solicitor(s) instructed to act for the chief constable in the matter of the application for a sexual risk order against Mr John O'Neill*
- 2. Details of selection/tender process by which counsel, Oliver Thorne, was selected to take instructions from the chief constable's solicitor in the same matter.*
- 3. Was Oliver Thorne responsible for drafting the interim order in the matter. If not, who was?*
- 4. Up to and including the hearing at York Magistrates Court on 19th August, 2016 what are the total costs spent on this matter (a) Internally (b) Externally?*
- 5. What is the operational codename by which this matter is known?*

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

I have today decided to disclose the located information to you.

- 1) I am exempting the provision of the solicitor(s) name/s who acted for the Chief Constable in the matter of the application for a sexual risk order against Mr O'Neill pursuant to Section 40(2) Personal Information, of the Freedom of Information Act.

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

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apparent) why the exemption applies. Please refer to the relevant exemption header for further context.

2) Barristers who are instructed by North Yorkshire Police are selected dependent upon their relevant areas of expertise, the geographical location of where they are based and their hourly charge rate. More experienced Barristers are selected for more serious cases.

3) A North Yorkshire Police Lawyer was responsible for drafting the interim order. I am withholding the Lawyer's name pursuant to Section 40(2) Personal Information, of the Freedom of Information Act.

Please refer to the relevant exemption header for further context.

4) The total internal costs spent on this matter, up to and including the hearing at York Magistrates Court on the 19 August 2016, are not currently recorded. For us to calculate such, it would take in excess of the appropriate time/ cost limit as stated within the Freedom of Information Act Regulations, and would therefore be exempt pursuant to section 12(1).

However, up until and including the hearing at York Magistrates Court on the 19 August 2016, North Yorkshire Police had spent £2,284.32 (excluding VAT) on external costs in relation to this matter.

5) There is not an internal operation name for this matter.

Section 40 – Personal Information

I am exempting the provision of the name(s) of Solicitors/ Lawyer(s) in relation to questions 1 and 3 pursuant to Section 40(2) Freedom of Information Act (the Act). This is to ensure anonymity for those involved in each case. I have, however, provided other details to assist in your request, whilst maintaining the elimination of any identification.

Where an individual can be identified by such data, releasing it would clearly breach the first data protection principle of being 'fair' to the data subject.

Section 40(2)(b) is an absolute class based exemption, which does not require a public interest test, but requires the balancing of the legitimate interests of the public against the interests of the individual under the first Data Protection Principle (that of 'fairness').

The type of information you have requested is personal information which can only be disclosed to the individual concerned. This exemption applies because the right given under the Act to request official information held by public authorities does not apply to the personal data of third parties where disclosure of that information would not be fair to the individual, and where there is no legitimate public interest in disclosure.

In all the circumstances of this instance it has been determined that the duty to the individual under the Data Protection Act 1998, and the public interest in maintaining the exemption from disclosure of personal information held by the force in such cases, outweighs the public interest in disclosure.

Releasing personal details to a person other than the data subject would not only breach the data subject's Data Protection rights it may also breach the obligations placed on an authority under the European Convention on Human Rights.

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Pursuant to Section 17(1) of the Act this letter acts as a refusal notice under the Freedom of Information Act 2000 in relation 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
Newby Wiske Hall
Northallerton
North Yorkshire
DL7 9HA

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 the 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 www.informationcommissioner.gov.uk. Alternatively, phone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Phone: 01625 545 700