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03/10/2017

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER: 198/17 & 024/17**

Thank you for your request for information regarding Chief Constables' Council which has now been considered.

**Applicant Question:**

Please could you send me a copy of the agenda, papers and presentations for the meeting of the Chief Constables' Council that took place on 13 – 14 October 2016 and 25-26 January 2017.

**NPCC Response 25-26 January Part 2:**

Following the dissolution of the Association of Police Chief Officers (ACPO), designation under the Freedom of Information Act did not automatically transfer across to the National Police Chiefs' Council (NPCC). The NPCC, as the new coordinating body, should clearly be open to the same level of scrutiny and transparency as its predecessor and it is anticipated that an Order to bring the NPCC under the auspices of FOIA will be forthcoming. This is currently the responsibility of the Cabinet Office and the NPCC is supporting the Cabinet Office in bringing forward the Order.

In the meantime, the NPCC will comply with the spirit of the Freedom of Information Act and will respond to all requests received as if it were still subject to FOIA. Applicants should note, however, that until the formal designation is in place and the legislation is amended to include the NPCC, the Internal Review process will remain in place but there is no legal basis to pursue complaints to the Information Commissioner's Office.

The NPCC would have responded in the following way:

The NPCC does hold information captured by your request.

Section 17 of the Freedom of Information Act 2000 requires the NPCC, when refusing to provide information by way of exemption, to provide you with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states why the exemption applies. In accordance with the Freedom of information Act 2000 this letter acts as a refusal notice to those aspects of your request.

I have identified where redactions have taken place and in doing so have stated the exemption that applies to each redaction.

I have detailed the exemptions used below in order of S22A, S23(1), S24(1), S27(1), S31(1)(a)(b), S36(2)(b)(ii), S36(2)(C), S40(2) and S43(2).

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Agenda	Paper	Exemption
1	Attendance and apologies not recorded at the time of request	None
2	Minutes of previous meeting held on 12 – 13 October 2016 withheld in part	S23, S31,S43, S24
3	Matters Arising including Action Log withheld in part	S23
4	Chair's Update – Verbal. Not recorded	None
4.1	Delivery Plan Update withheld in part	S23
4.2	Update on the College of Policing November 2016 professional Committee	S23
4.2	Annex to above Guiding Principles for Organisations – draft – not held for FOI purposes	None
4.3	Regional Paper – Regional Casualty Bureau Arrangements released in full	None
4.3	Regional Paper –Stop & Search released in full	None
4.3	Regional Paper – S163 Traffic Stops Update Paper released in full	None
4.3	Regional Paper – Media Relations Authorised Professional Practice released in full	None
4.3	Regional Paper – Post consultation draft annex to above not held for FOI purposes	None
4.3	Regional Paper – Special Branch Review Regional Paper withheld in part	S31, S24
4.3	Regional Paper – Special Branch Review National Summary withheld in full	S31, S24
4.3	Regional Paper – Review of Police Core Grant and 2017 – 18 Settlement released in full	None
4.3	Regional Paper – Commercial Collaboration released in full	None
4.3	Regional Paper – Online Child Abuse Referrals withheld in full	S23
4.3	Regional Paper – Disclosure Portfolio withheld in full	S36
4.3	Regional Paper – DBS Business Case and Benefits withheld in full	S36

4.3	Regional Paper – Update on the Joint International Policing Hub withheld in part	S23
4.3	Regional Paper – National Serious and Organised Crime Performance Assessment withheld in part	S23
4.3	Regional Paper – National Serious and Organised Crime template withheld in full	S31
4.3	Regional Paper – UKPPS Business Case withheld in full	S23
4.3	Regional Paper – Management of Registered Sexual Offenders withheld in full	S36
4.3	Regional Paper – Fraud – National, Regional & Local Structures withheld in part	S23
4.3	Regional Paper – Football Related non-recent Child Sexual Abuse Update withheld in part	S40
4.3	Regional Paper – Update on progress being made within ERSOU Undercover withheld in part	S23, S40, S31
4.3	Regional Paper – Counter Terrorism Policing withheld in full	S24, S31
4.3	Regional Paper – Troubled Families Programme released in full	None
4.3	Regional Paper – Pre-charge Bail Progress & Commencement Update released in full	None
5	Strategic Landscape Verbal Presentation from Mark Sedwill released in full (blank page)	None
6	Evidenced Based Policing for Chiefs Verbal presentation by CC Alex Marshall released in full (blank page)	None
7	Delivering Vision 2025 released in full	None
8	Letter from the Home Office HMIC Legitimacy Inspection withheld in part	S31
9	National use of Force Data Collation released in full	None
10	Labour’s Policing Priorities for 2017 Verbal presentation by Lyn Brown released in full (blank page)	None
11	Operation Resolve Verbal presentation by Assistant Commissioner released in full (blank page)	None
12	Police / Fire Collaboration released in full	None

13	Citizens in Policing Update and Next Steps released in full	None
14	National Federation update Presentation released in full (blank page)	None
15	Durham Organisational Climate Survey Paper released in full	None
15	Staff Survey Appendix 1 withheld in full	S22A
16	College of Policing Licence to Practice withheld in part	S36
17	Guiding Principles for Organisational Leadership final draft not held for FOI purposes	None
18	Workforce Representation released in full	None
19	Presentation to Joe Holness: National Police Memorial released in full (blank page)	None
20	Brexit Update Verbal presentation by Lynne Owens released in full (blank page)	None
21	Investigatory Powers Act withheld in part	S23
21	DRIPA Judicial Review released in full	None
22	Undercover Policing Inquiry withheld in part	S31, S23
23	Court Reform Presentation by HMCTS released in full (blank page)	None
24	Emergency Services Mobile Communications Programme withheld in full	S43
25.1	NPCC 2017/18 Budget and Funding released in full	None
25.2	ACRO Funding for 2017/18 withheld in part	S23, S27
25.3	NPoCC 2017/18 Budget and Funding released in full	None
25.4	NPCC 2017/18 Budget and Funding for National Wildlife Crime Unit released in full	None
	Chief Constables' Council – Regional Paper Feedback	S23
	Presentation Court Reform withheld in full	S36
	Presentation Organisational Leaders released in full	None

	Presentation Evidence-Based Policing withheld in full	S22A
	Presentation Police Federation Protect the Protectors released in full	None
	Presentation Use of Force V3 released in full	None

### Section 22A Research information – the legislation:

(1) Information obtained in the course of, **or derived from**, a programme of research is exempt information if –

(a) The programme is continuing with a view to the publication, by a public authority or any other person, or a report of the research (**whether or not including a statement of that information**), and

(b) Disclosure of the information under this Act before the date of publication would, or would be likely to, prejudice –

- (i) the programme,
- (ii) the interests of any individual participating in the programme,
- (iii) the interests of the authority which holds the information, or
- (iv) the interests of the authority mentioned in paragraph (a) (if it is a different authority from that which holds the information)

Section 22A was added to FOIA by the Intellectual Property Act 2014 which commenced on 01/10/2014, specifically to cover information relating to ongoing research.

There is a degree of overlap between Section 22 and Section 22A. But in several respects Section 22A provides an exemption that is broader in scope – at least in respect of research information.

Authorities may use Section 22A to refuse access to a wider range of information relating to ongoing research.

The exemption applies to information ‘obtained in the course of, or derived from, a programme of research’, where the research is ongoing, and there is a plan to publish a report of the outcome.

**Any such report may or may not include the information that has been requested**, without affecting the application of the exemption to the information.

The exemption will include a wide range of information relating to the research project, and will cover information that is not necessarily going to be published. In other words there does not need to be any intention to publish the information that has been requested.

FOIA does not define ‘research’. The Commissioner will use the ordinary definition of the term research: a systematic investigation intended to establish facts, acquire new knowledge and reach new conclusions.

The research programme the requested information is derived from must be ongoing. So long as the research continues, the exemption will apply.

### **Section 23 Information supplied by, or concerning, certain security bodies – the legislation:**

(1) Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to any of the bodies specified in subsection (3)

This is an absolute exemption and there is no requirement to consider the public interest test.

### **Section 24 National Security – the legislation:**

(1) Information which does not fall within Section 23(1) is exempt information if exemption from Section 1(1)(b) is required for the purposes of safeguarding national security.

Information will not be released if the information, where if to do so, would result in the information potentially being used to help one or more individuals circumvent for criminal and/or other reasons including those that would put at risk national security.

The information would allow individuals to infer the level of ability police forces maintain in regards to safeguarding national security. There is a significant risk that knowledge and understanding of any capabilities that the police have would allow terrorists or individuals to undermine or circumvent the police thereby prejudicing the ability to maintain national security.

Any disclosure under FOI is a disclosure to the world at large, and confirming the use of specialist techniques which the police service deploy in specific circumstances would prejudice law enforcement. This would be damaging and limit operational capabilities as criminals / terrorists would gain a greater understanding of the police's methods and techniques, enabling them to take steps to counter them; and provide an indication to any individual who may be undertaking criminal / terrorist activities that the police service may be aware of their presence and taking counter terrorist measures.

It is understood that the public are entitled to know where their public funds are being spent and a better informed public can take steps to protect themselves.

However, confirming the use of specialist surveillance techniques, capabilities, methodology and resources could render security measures less effective. This could lead to the compromise of ongoing or future operations to protect the security or infrastructure of the UK and increase the risk of harm to the public.

### **Section 27 International Relations**

(1) Information is exempt information if its disclosure under this Act, would, or would be likely to, prejudice –

(a) Relations between the United Kingdom and any other state

The disclosure of the information requested would diminish relations between the UK and other Countries. Although there is a public interest in knowing how the police service support other nations, there is also a requirement to protect information which may undermine the relationship which has been formed.

Disclosure would provide greater transparency over international work undertaken by the police service which would provide an opportunity for a debate to be stimulated as to whether the work conducted is necessary.

Nevertheless, the disclosure of the information would be damaging to those relationships. In order to build close working relationships that effectively help promote positive policing internationally, a disclosure of information may undermine that process would lead to the collapse in relations. The disclosure of the information would be damaging to the trust and confidence which has been built between the UK and other Countries.

### **Section 31 Law Enforcement – the legislation:**

(1) Information which is not exempt information by virtue of Section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice –

- (a) The prevention or detection of crime
- (b) The apprehension or prosecution of offenders

Some email addresses are contained within the correspondence and disclosure of direct contact details would enable an individual, intent on committing an offence to make contact with the department, pose as a police officer or member of police staff and try to glean information which would assist in their offending behaviour.

Disclosing information which may place the public at risk, or make it easier for crime to be committed cannot be in the public interest.

The police service primary performance indicator is the reduction of crime, and disclosure which has a negative impact on that agenda affects public trust in policing and in this case may make it more difficult to police.

With regard the evidence of harm itself, there is a threshold that requires the predicted issues to be 'more than likely'. In the case of an offender identifying full investigative techniques or gleaning information which would assist in offending behaviour can be difficult to establish and evidence the harm without actually disclosing exempt information. However, the principles are well established in terms of Freedom of Information legislation that to a certain extent the professional opinion of the police must be taken into account.

In addition some of the information contained within the papers provides information in relation to police tactics, covert capabilities and resources. Section 31 is a qualified and prejudice-based exemption. This requires the production of evidence of what prejudice may be caused and consideration as to the public interest in disclosure.

Disclosure of this information would enable those with criminal intent to target specific areas of the UK to conduct their criminal or terrorist activities. This would also enable criminals to take measures to counteract the tactical capabilities of police forces.

Disclosure of this information would have the likelihood of identifying specific vulnerabilities, which would ultimately compromise police tactics, operations and future prosecutions. Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on law enforcement. Public safety would

be put at risk if criminals were able to counteract police tactics. The NPCC is committed to demonstrating proportionality and accountability.

Any information that could impact or undermine ongoing investigations or any future investigations would enable targeted individuals / groups to become tactically aware of the police capabilities. This would help subjects and avoid detection, and inhibit the prevention and detection of crime.

The NPCC will not disclose information which may hinder the effective management of law enforcement or place staff or officers at risk. Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively managing this area of policing, there is a very strong public interest in safeguarding the tactical abilities.

The prevention and detection of crime is the foundation upon which policing is built and the police service have a clear responsibility to prevent crime and arrest those responsible for committing crime or those that plan to commit crime. Disclosure of information captured by this request could directly influence the stages of that process, and jeopardise current investigations or prejudice law enforcement.

The lack of the enhancement to the public debate that the redacted points produce, coupled with the risks leave me in no doubt that the balance, at this time lies in non-disclosure.

### **Section 36 Disclosure Prejudicing the Effective Conduct of Public Affairs – the legislation:**

(2)(b)(ii) information to which this section applies is exemption information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act would, or would be likely to inhibit the free and frank exchange of views for the purpose of deliberation, or

(2)(C) Would otherwise prejudice, or would be likely to otherwise prejudice, the effective conduct of public affairs.

#### **Management of Registered Sex Offenders – 36(2)(c)**

The release of the information prior to a managed communications strategy could influence a lack of public confidence if misinterpreted information was released by other forums, such as media coverage. The risk of reputational damage to the organisation can be evidenced by the reporting of a recent statement on behalf of the NPCC in relation to online child abuse investigations.

Whilst the information provided within the paper will promote public debate, this is a sensitive issue that affects communities and it is of paramount importance to ensure that the public are provided with the information, supported by factual evidence and information.

#### **DBS Enhanced Disclosure Certificates Paper and Business Case – 36(2)(b)(ii) and 36(2)(C)**

The use of a similar exemption (S35) is used extensively within government to protect the candour of policy and decision-making. S35 cannot be engaged by the police service.

If we were to maintain the current policy of trying to reflect discussions as fully as possible, such disclosure would have a chilling effect and inhibit frank and free discussions. In addition, the Qualified Person wishes to protect the internal thinking space of the departments and



organisations in scope and disclosure would prejudice matters/policy still under consideration. The information captured hasn't yet been cited by Ministers. Policy makers and advisers need a safe space to be advised in a free and frank manner.

It would be inappropriate on the NPCC's part to allow the FOI legislation to be circumvented by information being released which would be captured by the S35 government exemption.  
College of Policing Licence to Practice – S36(2)(C)

There are references to new primary legislation. The government needs a safe place to consider all of the options, and develop ideas in a free and frank manner. Disclosing the details of timing or discussions could become distracting to Ministers and have an adverse effect on the decision making process. Policy makers and advisers need a safe space to be advised in a free and frank manner.

It would be inappropriate on the NPCC's part to allow the FOI legislation to be circumvented by information being released which would be captured by the S35 government exemption.

Court Reform Presentation – S36(2)(b)(ii)

The slides outline future plans for reform. There are implications for stakeholders, staff and judiciary on how they will interact with the new service and what it means for them, such as business process change, operational change and funding to interact with the new service.

There are still ideas developing, the details of what and how will this will look, through strategic meetings with key stakeholders including the NPCC.

It would be inappropriate on the NPCC's part to allow the FOI legislation to be circumvented by information being released which would be captured by the S35 government exemption.

#### **Section 40 Personal information – the legislation:**

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if-

- (a) It constitutes personal data which do not fall within subsection (1)m, and
- (b) Either the first or the second condition below is satisfied

Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

Any information to which a request for information relates is also exempt information if it constitutes personal data which do not fall within subsection (1), and either the first or the second condition is satisfied.

#### **Section 43 Commercial Interests**

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice commercial interests of any person (including the public authority holding it).

The disclosure of the exempt information would provide greater transparency on how the police service spends public money. It would provide greater clarity on the propositions made by the UK

police service and what resources will be allocated in order to ensure that the proposals are successfully tendered and completed.

However, relationships would undoubtedly be damaged by the disclosure of the redacted information.

It is important that information is protected which would undermine any such relations as this would not only have an effect on the police service but also any future engagements and proposals the police service may have. The papers concern also the strategic position of the police service in relation to both financial and commercial and operational risk.

Although there is a public interest in understanding how the police service determine whether a service / product is suitable, there is risk of compromise and the trust and confidence between the parties is not in the public interest.

Although there is a public interest and accountability in knowing details of individuals who make decisions on behalf of the police service, the information should not be disclosed where there is a strong possibility that the disclosure would undermine the decision making process.

There is always a public interest in knowing how the police service allocates finances and the disclosure of this information may undermine the tendering process in securing contracts. Disclosure of the information would have a negative effect on the relationship of the supplier and individual police forces, as well as the NPCC.

Where public funds are being spent, there is a public interest in accountability and justification. In this case, there is an increase in public interest in how Senior Police Officers come together and debate national issues.

S43 protects information which, if disclosed, may adversely affect someone's business interests. The NPCC feel it would be inappropriate on our part to release any information that may adversely affect the business interests of an individual and reputation.

As a final note, and outside of the Act, I am able to provide the following context / direction with regard to some of the information captured by your request:

02 The first redaction by virtue of S23 in the closed minutes at 11 Business Enablers refers to S23 material and is exempt under FOI, however, the information can be found via the following direct web-link:

03 Action 35 Item 8 (1 of 3). The task is noted inaccurately and should have read 'to review the construction of the Local Policing Coordination Committee to ensure it can deliver the Policing Vision 2025'.

<http://www.npcc.police.uk/documents/CCCOctoberMinutesFinalPublic.pdf>

4.3 The College of Policing Guiding Principles for Organisations – Annex to the College of Policing Update has now been ratified and published and can be found via the following direct web-link:

[http://www.college.police.uk/What-we-do/Development/Promotion/police-leadership-guiding-principles/Documents/Guiding\\_principles\\_for\\_organisational\\_leadership.pdf](http://www.college.police.uk/What-we-do/Development/Promotion/police-leadership-guiding-principles/Documents/Guiding_principles_for_organisational_leadership.pdf)

12 The Fire Service Collaboration representative has advised that the NFCC Committees contained within the report have changed slightly since Chief Constables' Council, so the paper doesn't reflect accurate and up to date contact information.

18 Workforce. This paper was well received at Chief Constables' Council with the recommendations agreed. Furthermore, members of Chief Constables' Council sought for a submission to be made to the Police Transformation Fund to drive forward this work.

Yours sincerely

Sherry Traquair  
Freedom of Information Officer & Decision Maker

[www.npcc.police.uk](http://www.npcc.police.uk)

## **COMPLAINT RIGHTS**

### **Internal Review**

If you are dissatisfied with the response you have been provided with, in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 20 working days of the date of this response. The handling of your request will be looked at by someone independent of the original decision, and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.