

Our Ref: IR PCC 439.2016-17

Your Ref:

Date: 6 October 2016

Neil Wilby:  
[request-350255-18817d01@whatdotheyknow.com](mailto:request-350255-18817d01@whatdotheyknow.com)



Police and Crime  
Commissioner  
North Yorkshire



Dear Mr Wilby,

**FREEDOM OF INFORMATION REQUEST REF NO: Internal Review Request PCC 439.2016-17**

I write in connection with your request for an internal review which was received by the Office of the Police and Crime Commissioner on 8 September 2016. I note you seek access to the following information:

*I am writing to request an internal review of North Yorkshire Police and Crime Commissioner's handling of my FOI request 'Costs paid to Weightmans solicitors defending County Court claim C5QZ21V8'.*

*The grounds are as follows:*

- 1. The PCC has misdirected herself by relying on a S40(5)(b) as an exemption.*
  - a. The request makes plain that a county court claim exists, names the parties (the requester and the data controller) and the court reference number. This is information already publicly available.*
  - b. There is no reasonable expectation that the data subject would object to the data controller confirming that the claim exists. Thus, simply adding to the information already in the public domain*
  - c. Parties to court action do not have any right to anonymity, unless there are exceptional reasons and leave is given by the court upon application. No such application has been made to the court by either party.*
  - d. There has also been an article written about the claim that names the parties and the reference number. It was published on the internet on 10th June, 2016. Two months before this request was submitted:*  
<https://neilwilby.com/2016/06/10/chief-c...>
  - e. There is, therefore, no disclosure of personal information by confirming or denying that a claim had been made. The 'personal information' is already widely available and the claim is to be determined at a public hearing in Huddersfield County Court listed for 11th October, 2016.*
  - f. The public interest in this case is considerable. Both in terms of its novelty and the far reaching implications for other data controllers. The article referred to at 1d has attracted widespread comment. The requester is a well known justice campaigner and investigative journalist. There is no conceivable unfairness (or harm) in making his personal information widely available by confirming the existence of the court case.*
- 2. It is submitted that the response to this request is so unreasonable as to meet the test of perverse and irrational.*
- 3. It is further submitted that the rationale behind the decision provided to the requester does not concern data principles at all but is solely designed to prevent information, that would be harmful to the data controller's reputation, reaching the public domain. Either via a story written*

*by the requester, or by broadcasting the link to this WhatDoTheyKnow correspondence trail on social media.*

*4. These submissions at 2. and 3. will go further to the evidence of misfeasance and discrimination by the data controller, already pleaded by the requester, in the county court claim that the defendant in that claim cannot confirm or deny exists.*

*A full history of my FOI request and all correspondence is available on the Internet at this address: [https://www.whatdotheyknow.com/request/costs\\_paid\\_to\\_weightmans\\_solicit\\_2](https://www.whatdotheyknow.com/request/costs_paid_to_weightmans_solicit_2)*

## **Decision**

Following a review of your request and after careful consideration, I have concluded that the decision taken on 5 September 2016 to exempt your request under Section 40(5) of the Freedom of Information Act 2000 (The Act) is reasonable and correct. I therefore uphold this decision. In reaching this decision, I note that you refer to an article that you have published in relation to a County Court Claim, however I must emphasise that simply because a piece of writing is published on a website does not mean that the subject discussed is a) officially in the public domain, and b) can be no longer considered as personal information. Section 40 is an absolute exemption, and therefore a public interest test does not apply.

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.

## **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

Ashley Malone  
Police Lawyer (Civil Disclosure)

## **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](http://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