

By Email

Ref: FOI 2019-26

31 October 2019

Dear J Roberts,

FREEDOM OF INFORMATION REQUEST

Thank you for your email of 28 September 2019 where you reference our recent spotlight publication and ask for further information around IT monitoring.

2. Your request has been handled as a request for information under the Freedom of Information Act 2000. Your request was in the following terms:

In your report 'PEEL spotlight report Shining a light on betrayal' concerning the exploitation of crime victims for sex by police officers and staff, reference is made to several police forces which do not have software in place to monitor the use of ICT systems by police and staff:

Please provide the names of the police forces that do not have the correct software in place.

3. I can confirm HMICFRS holds the information you have requested. Please find attached a table that provides some of this information. The information in the table is taken from published individual force reports. You can access individual force reports via our website:

<https://www.justiceinspectors.gov.uk/hmicfrs/publications/>

4. The table provides information on 29 of the 43 forces in England and Wales. Information for the remaining 14 forces, which were inspected more recently, is exempt from disclosure under section 22 of the FOIA. The force reports for these forces have not yet been published. They will be made available on our website in due course.

5. We have provided some but not all of the information that we hold on the 29 forces listed in the table. The information attracts an exemption under section 31 of the FOIA. To disclose further detail would be likely to prejudice the prevention or detection of crime and the apprehension and prosecution of offenders.

6. We have provided the details of these exemptions in **Annex A**.

7. If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference FOI 2019-26 and stating the reasons for your dissatisfaction with the response.

Chief Operating Officer
HMICFRS
6th Floor, Globe House
89 Eccleston Square
London
SW1V 1PN
E-mail: haveyoursay@hmic.gsi.gov.uk

8. As part of any internal review HMICFRS's handling of your information request will be reassessed by staff who were not involved in providing you with this response.

9. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

On behalf of

HMICFRS FoI Team

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services

Annex A

Some of the exemptions in the FOI Act, referred to as 'qualified exemptions', are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in maintaining the exemption. We must carry out a PIT where we are considering applying any of the qualified exemptions in response to a request for information.

The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community if the information is released or not. Transparency and the 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public.

The detail of the exemptions we have applied in this case are set out below.

Section 22

(1). Information is exempt information if –

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time when the request for information was made, and*
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).*

(2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

Public interest test in relation to section 22 of the FOIA (qualified exemption)

HMICFRS are yet to report the findings from forces that were inspected in our tranche 3 cycle. These force reports will be published in the new year. Prior to publication, we will conduct a thorough quality assurance process to ensure our reported findings are accurate and represent the best possible evidence.

We are content that in view of the current position, the provisions of Section 22 apply in this case.

Section 31

(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,*
- (c) the administration of justice,*
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,*

(e) the operation of the immigration controls,

(f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),

(h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or

(i) any inquiry held under the [1976 c. 14.] Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.

(2) The purposes referred to in subsection (1)(g) to (i) are—

(a) the purpose of ascertaining whether any person has failed to comply with the law,

(b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,

(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,

(d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,

(e) the purpose of ascertaining the cause of an accident,

(f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,

(g) the purpose of protecting the property of charities from loss or misapplication,

(h) the purpose of recovering the property of charities,

(i) the purpose of securing the health, safety and welfare of persons at work, and

(j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).

Public interest test in relation to section 31 of the FOIA (qualified exemption)

We consider that some of the information held engages the exemption section 31(1)(a) of the FOIA (the prevention or detection of crime). The exemption under Section 31(1)(a) is qualified and is

subject to the balance of the public interest. As a qualified exemption we are required to balance the public interest between disclosure and non-disclosure.

In favour of providing the information, we acknowledge that disclosure of this information might provide assurance on the extent to which police forces have introduced software that allows them to monitor how staff use ICT systems in order to help prevent the exploitation of victims of crime.

However, in favour of not providing the information, we consider that, in this case, disclosure of this information could be useful to those wishing to exploit weaknesses in the current ICT software. The disclosure of this information could also create vulnerabilities in the systems designed to counteract these crimes. Therefore, on balance we have decided that it is not in the public interest for us to disclose the parts of the information that engage this exemption.