



Derbyshire Constabulary

Mr Abdul Naji

Telephone: 101
Direct Line: 0300 122 8752
Ask For: Freedom of Information
Our Ref: 002700/19
Your Ref: Vehicle Fleet
Date: 12 June 2019

Dear Mr Naji

FREEDOM OF INFORMATION REQUEST - REFERENCE NO: 002700/19

I write in connection with your request for information which was received by Derbyshire Constabulary on 24/05/2019. I note you seek access to the following information:

Please could I request the following information regarding all vehicles within your fleet (dating from the year 2000 till present):

- *The Vehicle Make & Model*
- *The Registration Number*
- *The role of the vehicle*
- *The year the vehicle was commissioned*
- *The year the vehicle was decommissioned (unless still in use)*

Result of Searches

Following receipt of your request, searches were conducted within Derbyshire Constabulary to locate any relevant information. The searches located some information relevant to your request.

Decision

I have today decided not to disclose all retrieved information to you as I am claiming an exemption under S31(a)(b) - Law Enforcement; the rationale for which is shown below.

On that basis please accept this letter as formal refusal of your request.

Refusal of Request – Section 17

Section 17(1) provides that -

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant 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.”

Section 31 (a)(b) - Law Enforcement

Information is exempt from disclosure under section 31(1)(a) and (b) if its disclosure would be likely to prejudice the prevention or detection of crime or the apprehension/prosecution of offenders.

This is a prejudice based, qualified exemption which requires provision of evidence of harm and a public interest test.

Harm Test

The Chief Constable is required to utilise equipment, in this instance vehicles, as he sees fit in policing the communities of Derbyshire in order to prevent or detect crime, apprehend or prosecute offenders and administer justice. By default, the authority to deploy such vehicles in given scenarios is deferred to officers/staff in line with operational requirements.

The nature of the tasks performed and roles undertaken in any such deployment/use is fundamental in achieving the above criteria. As a consequence, any release that will afford those intent on committing crime and evading capture any advantage will not be sanctioned. This will by default include make and model of such vehicles as it would allow a local and mosaic picture of various vehicles via forces on a local and national level to be produced. This applies to plain and dedicated surveillance vehicles in the current fleet and only dedicated surveillance vehicles in the decommissioned list - this prevents any pattern of purchase/vehicle type etc. from being ascertained.

Consequently, the release of any data relative to such assets would significantly compromise police tactics, impact on its primary objectives and allow criminals elements to take necessary action to avoid detection/arrest. Additionally, any such release would impact on the overall confidence of the communities we serve if it was felt that it allowed criminal elements to evade detection/prosecution and the crime rate, coupled with the fear of crime, to rise.

Public Interest Test

Considerations favouring disclosure

When information disclosed relates to the effectiveness and efficiency of the Constabulary or its officers/assets it is generally of benefit to the community. In this case the release of information will enable the public to have a better understanding of the Constabulary's capabilities, its covert fleet of vehicles as well as to the efficiency and effectiveness of how they are utilised.

One of the underlying principles of the Act is the need for Authorities (Police) to be more open and transparent. In this case release of the data required would provide the community with an awareness of the Constabularies ability to fulfil its core functions of the prevention or detection of crime; the apprehension and the prosecution of offenders as well as confidence that public money is being utilised in an efficient and effective manner.

Considerations favouring non-disclosure

The Constabulary has certain assets that it deploys for given scenarios be they dedicated to that function or merely have that capability to perform it as and when required. Their use allows the Chief Constable to utilise police tactics/assets which, if details were released to the general public, would compromise those tactics for current and future use. Additionally, if the community became aware that criminal elements were evading detection/prosecution as a consequence the fear of crime and confidence in the service as a whole would be adversely affected.

Balance

When balancing the public interest test I have to consider whether the information should be released in to the public domain, i.e. is the public interest in maintaining the exemption greater than the public interest in disclosing it.

The most persuasive reason for disclosure is transparency which needs to be compared to the strongest argument for non-disclosure which is the compromising of current and future law enforcement tactics.

A disclosure under the Freedom of Information Act is a disclosure to the public at large and not just the applicant. Consequently, the public authority, if prepared to disclose, has to be aware of this and content to release to anyone who asks subsequently. It also has to be aware that data following such release may be made public by the recipient in any medium they choose. The Tribunal in the case of *Guardian & Brooke v The Information Commissioner & the BBC* (EA/2006/0011 and EA/2006/0013) (following *Hogan and Oxford City Council v The Information Commissioner* (EA/2005/0026 and EA/2005/0030)) confirmed that, “Disclosure under FOIA is effectively an unlimited disclosure to the public as a whole, without conditions” (paragraph 52):

Consequently, information released under The Act where exemptions apply will only be sanctioned where there is a tangible community benefit which is more powerful than the harm that can be done. Based on the above I am not convinced that in this case that is shown and, consequently, am of the view that this information needs to be protected and the exemption applied.

Right to Request a Review (Complaint)

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

I would like to take this opportunity to thank you for your interest in Derbyshire Constabulary.

Should you have any further enquiries concerning this matter, please write or contact the Freedom of Information Officer, on the above telephone number quoting the reference number in the header.

Yours sincerely

Kevin Lea
Freedom of Information Officer

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