



Date: 19/09/2017
Our Reference: FOIA-2017-0082
Your Reference: n/a

(Via email: request-425609-55230a48@whatdotheyknow.com)

Dear Ms Smyth,

RE: Freedom of Information Act 2000 Request

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 16/08/2017. I note from your request that you seek the following information:

- a) *All communications between COP and the Office of the Independent Anti-slavery Commissioner, Kevin Hyland.*
- b) *Agendas and minutes of any meetings between COP and the Office of the Independent Anti-slavery Commissioner, Kevin Hyland.*

From the date of the appointment of the Independent Anti-slavery Commissioner, Kevin Hyland, in November 2014 to present date.

Decision

After conducting careful searches for any information relevant to your request I can confirm that there is information held. I have attached the relevant copies of correspondence as "Disclosure 1", "Disclosure 2", "Disclosure 3", "Disclosure 4" and "Disclosure 5". However, I have partially refused your request under the following exemptions:

- S.40(2) Personal Information
- S.22 Information Intended for Future Publication

Your attention is therefore drawn to the refusal notice provided in Appendix A and the complaint rights provided in Appendix B.

Yours sincerely,

Melda Squires | Legal Adviser, Ethics, Legal and Corporate Assurance
Ethics, Integrity and Public Interest Unit
College of Policing

Email: FOI@college.pnn.police.uk

Website: www.college.police.uk

Appendix A

Refusal Notice

Section 40(2) Personal information.

Under section 40(2) by virtue of section 40(3)(a)(i), personal data of a third party can be withheld if it would breach any of the data protection principles to disclose it. Personal data is defined in section 1(1) of the Data Protection Act (DPA) as:

‘data which relate to a living individual who can be identified –

- (i) from those data, or
- (ii) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intention of the data controller or any other person in respect of the individual.’

The two main elements of personal data are that the information must ‘relate’ to a living person and that the person must be identifiable. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them, has them as its main focus or impacts on them in any way.

In this instance, the information ‘relates to’ a number of email addresses of individuals who work at the College of Policing and individuals from the Independent Anti-Slavery Commissioner’s office. It is the College’s view that the information requested would fall within the definition of ‘personal data’ as the requested information relates to living individuals and they are identifiable from that information.

Personal data is exempt if either of the conditions set out in sections 40(3) and 40(4) of FOIA 2000 are met. The relevant condition in this case is at section 40(3)(a)(i) of FOIA 2000, where disclosure would breach any of the data protection principles. In this case the College of Policing has considered whether disclosure of the personal data would breach the first data protection principle, which states that ‘Personal data shall be processed fairly and lawfully.’

In considering the first data protection principle and in particular the fairness of disclosure I have considered the factors below:

Likely expectation of the data subject

The College are of the view that there would be no legitimate expectation on the part of the data subject that the College would disclose this information without the consent of the individuals concerned first being obtained. Exception is given of course to those who hold senior positions within the College of Policing, the

UK police service, and the Police and Crime Commissioner, where there is an expectation that such information would be disclosed with or without consent. In this instance, it has not been possible to obtain the consent of the data subjects and it would be unfair to them to disclose their personal data without consent being obtained.

The legitimate public interest

It is our view that the data subject would have a reasonable expectation that this information would not be disclosed and it would not be fair to them to put this information into the public domain without their express consent. The College does however accept that releasing this information would reinforce the College's commitment to being an open and transparent organisation, serving to maintain public confidence in the College and the wider police service.

On balance however the College of Policing does not consider that the legitimate public interest would outweigh the interests of the data subject in this case and that it would not be fair to put this information in the public domain without their consent, and disclosure could cause unwarranted harm to the interests of the individual.

Based on the above I am of the view that it would not be fair to disclose the requested information and to do so would breach the first Data Protection principle, which requires the College to process personal data fairly and lawfully. As such it is not necessary for me to go on to consider the other elements of the first principle.

It is for this reason that the College of Policing have withheld this information under 40(2) by virtue of section 40(3)(a)(i).

Section 22 – Information intended for future publication

Section 22 provides –

(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).

Section 22 allows for circumstances when it is reasonable and correct for public authorities to delay the provision of information until it is made generally available through publication. This provision is both a class-based and qualified exemption based. I am, therefore, required to consider the public interest test to determine whether the public interest lies in disclosing or withholding the requested information.

In this instance, the information intended for future publication is the IASC investigation manual referred to in Disclosure 1. This document is wholly owned by the IASC and an early draft was sent to the College for comment.

Public interest considerations favouring disclosure

There is a clear public interest in making appropriate information available to the public in order to promote openness, transparency and to provide reassurance to the public. The release of the information would reinforce the College of Policing's commitment to being an open and transparent organisation, serving to maintain public confidence in both the College and the wider police service.

Public interest considerations favouring non-disclosure

The disclosure of information within the scope of an FOIA request needs to be balanced against the public interest in such a public body ensuring the maximum cost effectiveness. The College of Policing is aware that the IASC intends to publish this manual alongside further training materials and that the production of this document remains ongoing. The disclosure of this information under this FOIA request not only carries the real risk of being misrepresentative at this stage, but is also not the most cost effective way of placing this information in the public domain.

Conclusion

I accept that there is a clear public interest in the College of Policing making other information available to the public in order to promote openness, transparency and to provide reassurance to the public. It also stimulates public debate and leads to a better informed public overall.

However, under the exemption provided by section 22 of the FOIA 2000, it must be reasonable in all the circumstances to withhold the information until the intended date of publication. Given the information is currently being processed and the information is anticipated to be published in due course, I have concluded that the public interest in withholding this information outweighs the public interest in releasing it prior to its intended publication.

Appendix B

Complaint Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the College of Policing to have the decision reviewed.

Complaints should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner

If, after lodging a complaint with the College of Policing 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 <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: +44 (0)1625 545 700