

# Northumbria Police

## FREEDOM OF INFORMATION MAILBOX CORRESPONDENCE

From: Freedom of Information Mailbox on 02/03/2012 08:58

Sent by: Helen Robbins

To: request-88458-4a2c1 bc9@whatdotheyknow.com

CC:

Subject: Freedom of Information Act 2000 (FOIA) Request 212/12 - Information Commissioners Office [NOT PROTECTIVELY MARKED]

Freedom of Information Act 2000 (FOIA) Request 212/12 - Information Commissioners Office

### **Provision of information held by Northumbria Police made under the Freedom of Information Act 2000 (the 'Act')**

Thank you for your email dated 17 February 2012 in which you made a request for access to certain information which may be held by Northumbria Police.

As you may be aware the purpose of the Act is to allow a general right of access to information held by a Public Authority (including the Police), subject to certain limitations and exemptions.

Further to our response relating to FOI 791/11 - Whitley Bay CCTV, dated 16 February 2012.

You asked:

Further to FOI 791/11 - Whitley Bay CCTV

You say; "Following notification from the Information Commissioners Office, I have taken the opportunity to undertake a formal review the decision made not to respond to you with regards to this matter and the determination that it was linked with the subject area which has been deemed as vexatious with regards to the Act.

I confirm that I am not satisfied that the view that this request is linked to the shooting in Whitley Bay in which you were involved and I am not of the view that the disclosure of this information should have been exempted by means of Section 14 of the Act.

Accordingly, I have provided the information you originally requested below and I can confirm that it is correct as of the 3rd February 2012."

Given what you have stated above I would like all recorded information you hold concerning 'notification from the Information Commissioners Office' that you refer to and also all recorded information between ICO and NP concerning this matter.

In response:

As advised previously the above questions were processed as a new request, and allocated a new Northumbria Police FOI reference number, due to a response already having been provided to you in respect of your original request regarding CCTV in Whitley Bay (FOI 791/11). We did request that you submit these new questions under a new whatdotheyknow reference number, however this has not been received and we have therefore forwarded this response to

your original whatdotheyknow reference number.

We have now had the opportunity to fully consider your request and I provide a response for your attention.

Following receipt of your request, searches were conducted with the Disclosure Section of Northumbria Police. I can confirm that the information you have requested is held by Northumbria Police, however will not be disclosed for the following reason.

The information you seek will consist of your personal information and so will be exempt by virtue of Section 40 of the Act. I have set out the exemption for you below:

### **Section 40 - Personal Information**

(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), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is -

- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the [1998 c. 29.] Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene -
  - (i) any of the data protection principles, or
  - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
- (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the [1998 c. 29.] Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

Section 40 is a classed based, absolute exemption and therefore there is no need to explain the public interest considerations in this area.

You should consider this to be a refusal under Section 17 of the Act.

However, you may wish to request this information using Data Protection Legislation whereupon, Section 7 of the Data Protection Act 1998, allows a right of access to personal or sensitive personal data held by the data controller, in this case, Northumbria Police. This process is referred to as Subject Access. In order to aid and assist you I have provided a link below to relevant page of the Northumbria Police website which details how to make a Subject Access application along with relevant forms for completion:-

[http://www.northumbria.police.uk/foi/subject\\_access/index.asp](http://www.northumbria.police.uk/foi/subject_access/index.asp)

The information we have supplied to you is likely to contain intellectual property rights of Northumbria Police. Your use of the information must be strictly in accordance with the Copyright Designs and Patents Act 1988 (as amended) or such other applicable legislation. In

particular, you must not re-use this information for any commercial purpose.

### **How to complain**

If you are unhappy with our decision or do not consider that we have handled your request properly and we are unable to resolve this issue informally, you are entitled to make a formal complaint to us under our complaints procedure which is attached.



FOI Complaint Rights.doc

If you are still unhappy after we have investigated your complaint and reported to you the outcome, you may complain directly to the Information Commissioner's Office and request that they investigate to ascertain whether we have dealt with your request in accordance with the Act.

Yours sincerely

Michael Cleugh  
Data Protection and Disclosure Advisor  
Direct Dial: 01661 868347

[NOT PROTECTIVELY MARKED]