



Our Ref: 443.2021-22  
Date: 9 September 2021

Civil Disclosure  
Joint Corporate Legal Services

Dear Applicant,

**FREEDOM OF INFORMATION REQUEST REFERENCE NO: 443.2021-22**

Further to recent correspondence regarding your Freedom of Information Request 443.2021-22, I am now providing you with a formal withdrawal of my response made to you on 2 September 2021. Please accept my apologies as the information provided to you on 2 September 2021 is erroneous and should be disregarded.

Please find below an updated response in respect of your request.

**Request**

I write in connection with your request for information which was received by North Yorkshire Police on 18 August 2021. I note you seek access to the following information:

*1. Please provide the number of hate crime referrals received from the organisation ResistingHate.org in the last five years.*

**Decision**

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at S1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at S1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon Section 17 of the FOIA requires that we provide the applicant with a notice which: a) states that fact; b) specifies the exemptions in questions and c) state (if that would not otherwise be apparent) why the exemption(s) apply.

North Yorkshire Police neither confirms nor denies whether information relevant to this request is held by virtue of the following:

**S40(5) Personal Information**

Jane Wintermeyer BSc (Hons) Force Solicitor & Head of Legal Services  
Police Headquarters | Alverton Court | Crosby Road | Northallerton | North Yorkshire | DL6 1BF  
DX No 68810 NORTHALLERTON 2 | Telephone 01609 643542 | Fax 01609 789987

Non-emergency  
Number



Section 40 is a class based absolute exemption and there is no requirement to evidence the harm or consider the public interest.

#### **Section 40**

Consideration on applying this exemption is subject to whether the disclosure of the information requested would lead to identifying individuals and place information pertaining to them into the public domain by North Yorkshire Police. This constitutes personal data which would, if released, be in breach of the rights provided by the Data Protection Act 2018 and General Data Protection Regulations; namely the first data protection principle, which states that personal data will be processed lawfully, fairly and transparently. It is my view that the request runs counter to the three requirements prescribed by law and that there is no lawful basis to provide this information. Furthermore, the question of fairness and transparency is not met either as the data subjects in question would have no expectation that their personal data would be provided and processed in this way. This is an absolute exemption and no public interest test is required.

No inference can be taken from this refusal that the information you have requested does or does not exist.

Pursuant to Section 17(4) of the Act this letter acts as a Refusal Notice in response to your request.

Please note that systems used for recording information are not generic, nor are the procedures used locally in capturing the data. It should be noted therefore that this force's response to your questions should not be used for comparison purposes with any other responses you may receive.

#### **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

Amie McNairn  
Legal Officer (Civil Disclosure)  
Joint Corporate Legal Services

## **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 request that North Yorkshire Police 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 North Yorkshire Police made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with 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  
Alverton Court  
Crosby Road  
Northallerton  
North Yorkshire  
DL6 1BF

In all possible circumstances 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 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 <https://ico.org.uk> Alternatively, phone: 0303 123 1113 or write to:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF