



Our Ref: 1335.2019-20  
Your Ref:  
Date: 06 October 2020

Dear Applicant,

**FREEDOM OF INFORMATION REQUEST REFERENCE NO: 1335.2019-20**

I write in connection with your request for information which was received by North Yorkshire Police on 31 March 2020. Please accept our apologies for the delay in providing you with a response. I note you seek access to the following information:

*In an article published on 20th April, 2011 the following statement was provided to the newspaper by NYP:*

*~ North Yorkshire Police said it would carry out a review to see where lessons could be learned after Garbutt's defence team likened its investigation to a "comedy of errors" ~*

*Please disclose the following information by way of the Freedom of Information Act:*

- 1. Who commissioned the review?*
- 2. What operational name was assigned to the review?*
- 3. What was the name and rank (or style) of the officer who undertook the review?*
- 4. For which organisation did the reviewer work at the time the review was commissioned (eg HMIC, Peer review by another police force, independent bar, academic).*
- 5. On what date did the review commence?*
- 6. On what date did the review complete.*
- 7. What is the date stamp on the report of the review.*
- 8. To whom was it published.*
- 9. A copy of the Executive Summary and/or key recommendations.*
- 10. The cost of the review.*

Jane Wintermeyer BSc (Hons) Force Solicitor & Head of Legal Services  
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Non-emergency  
Number



**Extent and Result of Searches to Locate Information**

To locate the information relevant to your request searches were conducted within North Yorkshire Police.

I can confirm that part of the information you have requested is held by North Yorkshire Police.

**Decision**

I have today decided to disclose the located information to you.

- 1) Detective Superintendent Raw (Senior Investigating Officer)
  - 2) No formal full 'review' was done, a structured debrief was undertaken for which no operational name was assigned. This debrief formed part of the overarching Operation 'Nardoo'.
  - 3) Detective Superintendent Raw
  - 4) This was an internal debrief conducted with partner agencies.
  - 5) 13 May 2011
  - 6) 13 May 2011
  - 7) 09 January 2012
  - 8) The report was not made available to the public, it was used internally for learning purposes.
  - 9) I am exempting disclosure of a debrief summary report pursuant to sections 31(1)(a)(b) Law Enforcement, 30(1)(a) Investigations and proceedings conducted by public authorities and 40(2) Personal Information. This is because it is an operationally sensitive document, containing information only obtained for the purposes of an investigation, details on police tactics and capabilities and sensitive personal information.
- Section 17 of the Act requires North Yorkshire Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with 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. Please see the relevant exemption headers below for further information.
- 10) No recorded information is held in order to answer this part of your request. This is because there is no record of the exact cost of the review. Any costs associated with this review would be recorded under the overarching Operation Nardoo cost code or would be absorbed by general policing costs. To determine any sort of accurate figure would involve complex judgement across a number of roles/ departments to calculate time spent, individual pay grades any travel costs etc. to conduct such a process would exceed the appropriate time limit under section 12 – Excess Cost of the act.

## Exemptions Explained

### **Section 30(1)(a) – Investigations and proceedings conducted by public authorities**

Section 30 is a qualified, class-based exemption, which requires that I conduct a public interest test to balance the legitimate interests of the public in knowing the information against the interests of non-disclosure.

This exemption applies because the information you have requested contains information relating to a particular investigation and details only held for the purposes of a criminal investigation and prosecution.

#### **Public Interest Test**

##### **Reasons for Disclosure**

It is important that the public have confidence in those public authorities tasked with upholding the law. Disclosure would promote the forces openness and transparency and confidence will be increased by allowing scrutiny of the forces (or individuals) performance and this may involve examining the decisions taken in particular cases. It is noted that there is a degree of public interest in the subject matter. The Police force is funded by public money therefore it is accepted that there is also general public interest in the spending of these funds.

##### **Reasons against Disclosure**

Section 30(1) provides an exemption from the duty to disclose information that a public authority has held at any time for certain investigations or proceedings.

The exemption is necessary to protect any future investigations or proceedings from prejudice.

The report requested contains information of significant value to the investigation and a successful prosecution. This Information was only obtained by North Yorkshire Police for the specific purposes of an investigation and its subsequent use as evidence in prosecuting an individual.

Evidential and case details are required to be protected from disclosure so that the success of the prosecution can be maintained. Disclosure would prejudice North Yorkshire Police's position by allowing external interference from those not involved in the proceedings. This would frustrate any judicial process and disrupt an individual's right to a fair trial.

##### **Balancing Test**

After considering the reasons for and against disclosure, it is my opinion that the reasons for non-disclosure outweigh the reasons for disclosure.

### **Section 31(1)(a)(b) – Law Enforcement**

Section 31(1)(a)(b) is a prejudice based qualified exemption and there is a requirement to articulate the harm that would be caused in the disclosure of any information, as well as carrying out a public interest test.

#### **Evidence of Harm**

As you may be aware, disclosure under FOIA is a release to the public at large. Whilst not questioning the motives of the applicant, releasing any information held relating to a particular investigation and how it was conducted would prejudice North Yorkshire Police's Law Enforcement capabilities.

The report requested for disclosure contains tactical policing information and information on the capabilities of North Yorkshire Police.

Disclosure would allow members of the public to see how North Yorkshire Police manage an investigation and the tactics used to apprehend and prosecute offenders. It would also outline certain capabilities North Yorkshire Police have in order to detect and investigate crime and any strengths or vulnerabilities in the way in which a matter is investigated by the public authority.

If criminals were to have this knowledge, it would put them at advantage as they could then put measures in place to avoid detection from future criminal activity. This would have a detrimental impact on public safety in the area.

The tactics used and capabilities available to North Yorkshire Police need to be protected from public knowledge so that effective Law Enforcement abilities can be maintained.

#### **Reasons for Disclosure**

There is public interest in how the Police Operate in order to protect the public from risk of harm. Disclosure could raise the public's confidence in the police's ability to protect them from harm and raise confidence that the Police were readily available across the county in order to respond to threats or criminal activities. Disclosure would allow the public to scrutinise how the police investigate and prosecute this particular type of matter and where resources are being prioritised. The police service operate on public funding therefore there is general interest in the use of these funds.

#### **Reasons against Disclosure**

In addition to the evidence of harm; disclosure would cause significant detriment to the Police forces ability to prevent and detect crime, apprehend and prosecute offenders. This would subsequently cause an increased risk to public safety. If such information was routinely disclosed by police forces it would inform criminals where certain gaps and vulnerabilities may lie between police forces. A more informed criminal would lead to more crime to being committed which as a consequence would put pressure on police resources in order to manage an increase. This increase in required resources could also cause a rise in the Police's expenditure of public money.

#### **Balance test**

Considering all the above it is the decision that the factors against disclosure significantly outweigh any reasons for disclosure.

#### **Section 40 – Personal Information**

Section 40(2) is an absolute class based exemption, which does not require a public interest test, but requires the balancing of the legitimate interests of the public against the interests of the individual under the first Data Protection Principle; in that processing of personal data must be lawful and fair. (DPA 2018 35(1), EUGDPR Article 5(1))

This exemption applies because the report being requested holds considerable amounts of third party personal data of individuals involved in a criminal investigation. Any assistance provided to the police by members of the public has been done so in confidence that North Yorkshire Police would not breach

confidentiality. Similarly, subjects of a criminal investigation and prosecution also have the right to have their personal data protected by North Yorkshire Police.

Disclosure of personal details would not be fair on any individual involved in the matter and to disclose any third party personal information under this Freedom of Information Act request would be in breach of the Data Protection Act and may also breach the obligations placed on an authority under the European Convention on Human Rights

In all the circumstances of the case it has been determined that the duty to the individual under the Data Protection Act 2018 & EU General Data Protection Regulations, and the public interest in maintaining the exemption from disclosure of personal information held by the force in such instances, outweighs any public interest in disclosure.

Pursuant to Section 17(1) of the Act this letter acts as a partial 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

Robert Bates  
Legal Officer (Civil Disclosure)  
Joint Corporate Legal Services  
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## **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 require that North Yorkshire Police reviews 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 that 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 the 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