



Our Ref: 782.2017-18

Your Ref:

Date: 12 January 2018

Civil Disclosure

Joint Corporate Legal Services

Neil Wilby <request-350296-9eeb1fd1@whatdotheyknow.com>

Dear Mr Wilby

**FREEDOM OF INFORMATION REQUEST REFERENCE NO: 782.2017-18**

I write in connection with your request for information which was received by North Yorkshire Police on 22 October 2017. Please accept our apologies for the delay in providing you with a response. I note you seek access to the following information:

*As you are doubtless aware, the complaint to the Information Commissioner's Office (ICO) has progressed to an appeal to the First Tier Tribunal.*

*Within the pleadings concerning that appeal, reference is made by North Yorkshire Police (NYP) to the existence of Terms of Reference for the Operation Rome investigation, drawn up by the Gold Commander (now disclosed by NYP, under the Freedom of Information Act, as DCC Madgwick).*

*Please disclose those Terms of Reference, by way of the Act.*

**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 there are some Terms of Reference held by North Yorkshire Police in relation to Operation Rome.

**Decision**

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

Please find below the recorded Terms of Reference retrieved for the Operation Rome investigation. Although it is believed that the Terms of Reference originated from Gold, and most likely DCC Madgwick, there is no recorded information held to evidence this.

I have exempted some of the information pursuant to Section 40(2) – Personal Information. This is because the information contained is relative to those involved and therefore to release this information would not be fair to the data subject. Please see the exemption explanation below.

## **Terms of Reference**

1. To review [Section 40(2)] and obtain relevant evidence.
2. To review the [Section 40(2)] to this case to identify whether there is information/evidence to support [Section 40(2)].
3. Identify whether there is sufficient information [Section 40(2)].
4. Review the background of the circumstances of this case and identify opportunities to seek a resolution to reduce the impact on policing [Section 40(2)].
5. Review the [Section 40(2)] and identify what the current position is.

## **Exemption Explanation**

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.

Section 40(2)(b) 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 (that of 'fairness'.) Where an individual can be identified by such data, releasing it would clearly breach the first data protection principle of being 'fair' to the data subject.

This exemption applies because the right given under the Act to request official information held by public authorities does not apply to the personal data of third parties where disclosure of that information would not be fair to the individual, and where there is no legitimate public interest in disclosure.

In all the circumstances of this instance it has been determined that the duty to the individual under the Data Protection Act 1998, and the public interest in maintaining the exemption from disclosure of personal information held by the force in such cases, outweighs the public interest in disclosure.

Releasing personal details to a person other than the data subject would not only breach the data subject's Data Protection rights it may also breach the obligations placed on an authority under the European Convention on Human Rights.

Pursuant to Section 17(1) of the Act this letter acts as a refusal notice under the Freedom of Information Act 2000 in relation 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

Caroline Williams  
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 require the North Yorkshire Police to 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 of the North Yorkshire Police made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the 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