

Data Protection Office

Police Headquarters, Saunders Lane, Hutton, Preston PR4 5SB

Tel: 01772 413203 / 412144

Email: FOI@lancashire.police.uk



Aharon Shimon

Sent via email to: request-846494-11c7436f@whatdotheyknow.com

Date: 8th June 2022

Dear Aharon Shimon

INTERNAL REVIEW: DPO/FOI/001795/22 IN RELATION TO FOI/000999/22

Thank you for your request for Internal Review received by Lancashire Constabulary on 05/06/2022.

Your initial request (detailed below) has been reconsidered by an Internal Review Panel.

1) a copy of the Constabulary's policy or procedure for the verification of the legitimate possession and use of prescribed medical cannabis/cannabis-based prescription medicine (CBPM);

2) if the Constabulary does not have a local policy regarding this, could you please confirm that the Home Office guidance is adhered to by the Constabulary - namely that someone claiming the legitimate possession and use of medical cannabis will be expected to produce: the original medication container complete with the pharmacy dispensing label bearing the name of the patient; with either a copy of their FP10 prescription or a letter from the prescribing clinician; and a form of recognised photo ID (such as a passport, driving licence, or a PASS accredited photocard) bearing the same name as displayed on the dispensing label and the copy of the FP10 or clinician's letter;

3) if your Constabulary does not have a policy relating to this, could you please provide the Constabulary's policy regarding compliance with the PSED (Public Sector Equality Duty), especially with regards to the avoidance of discrimination against disabled people for the legitimate possession and use of a prescribed medication;

4) a copy of any internal briefing documents provided to police officers regarding the existence of - and the process for the verification of - prescribed medical cannabis flower or other CBPM's following the Home Office Circular 2018: 'Rescheduling of cannabis-based products for medicinal use in humans' and The Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018 which allowed the prescribing of medical cannabis (CBPM);

5) the named lead for the Constabulary for matters pertaining to the verification of medical cannabis (CBPM);

6) the Constabulary's policy or position relating to the recognition of unaccredited card schemes such as Cancard or MedCannID, if such a policy exists.

The panel have also reviewed the original response provided which was as follows:

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 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 question and c) state (if that would not otherwise be apparent) why the exemption(s) applies.

Your request has now been considered and some of the information you are seeking is held however

unfortunately, it is not possible to provide a full response to this request as some of the information is felt to be exempt from disclosure under the Freedom of Information Act 2000 by virtue of the following exemptions:

- **Section 21(1) Information Reasonably Accessible by Other Means**
- **Section 31(1)(a)(b) Law Enforcement**

Please be advised that for Freedom of Information requests where the information requested is reasonably accessible by other means, the application may be refused via Section 21 of the Act. I can confirm that some of the information requested in question 4 is published on the government website and can be found by following the below link:

<https://www.gov.uk/government/publications/cannabis-cbd-and-other-cannabinoids-drug-licensing-factsheet?msclkid=1a25cc7dcf8f11ecbd58aec01b86dd7c>

Section 21 is a Class Based, Absolute Exemption therefore there is no requirement to evidence the harm or conduct a Public Interest Test.

The Equality Impact Assessment guidance document has been redacted where the information contained within was deemed to be exempt by virtue of section 31(1)(a)(b) the reasoning for which is outlined below.

Section 31 is a qualified, prejudice-based exemption and therefore there is a requirement to articulate the harm that would be caused by disclosure, as well as carrying out a public interest test. Details of these considerations can be found below.

Evidence of Harm

It must be remembered that any disclosure under the Freedom of Information Act must be treated as a disclosure to the world rather than to a particular applicant. With this in mind releasing internal contact numbers to the world could result in cold calling or disruption. This would hinder the effectiveness of the department concerned when trying to fulfil their duties.

Factors Favouring Disclosure

Whilst there is not much public interest in releasing the contact number for the local policing unit, disclosure would demonstrate openness and transparency, which may aid public confidence.

Factors Against Disclosure

As referenced, disclosure of contact numbers has the potential to result in disruption to the department concerned which would divert important resources from a key role in the Constabulary. This would have a negative impact on the effectiveness of law enforcement.

Balance Test

The police service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The police service will never divulge information if to do so would compromise the policing purpose in the effective delivery of law enforcement. We are of the opinion that the public confidence gained by releasing the information concerned is outweighed when balanced with the potential impact it could have on law enforcement.

This letter serves to act as a refusal notice for these aspects of the request, as per S.17 (1) of the Act.

Question 1 and 2

Lancashire Constabulary does not have a specific policy, we follow Home Office and National Police Chiefs Council (NPCC) Guidance.

Question 3

Please see attached document "R -999-22 To Be Sent" outlining Lancashire Constabularies Equality Impact Assessment Guidance notes.

Question 4 and 6

Please see the attached NPCC briefing document.

In addition, the below information is available on the Lancashire Constabulary internal website and is based on a NPCC Cancard Factsheet:

Cannabis cards – information for officers

Tuesday 13 April 2021

This is a reminder to officers, that Cannabis cards were launched late last year for people who have a legal medical reason for using it.

Cancard, as it is called, launched on Monday 30 November 2020 and it is estimated that around 30,000 people in the UK use them.

In 2018 the UK Government legalised Cannabis for medicinal use. Approximately 1.1 million could qualify for a private prescription.

The Cancard is a holographic photo ID card and designed in collaboration with GPs and verified at the patient's surgery. The card is for people who qualify for a legal prescription but are unable to afford one.



The card is NOT a 'get out of jail free' card and does not qualify as a legal entitlement to possess Cannabis. However, given the unique circumstances, it is anticipated that anyone who presents the card is treated with discretion and are not penalised for being unable to access a legitimate need for medicinal Cannabis.

In order to qualify for a Cancard, holders must have a confirmed diagnosis by their G.P, have tried at least two other types of prescribed medication for their condition or discussed these alternatives but discounted them due to adverse side effects and unable to afford a private prescription.

To assist officers when presented with the card, there is a policing helpline that is staffed between 9am and 9pm and will offer advice and guidance on how to deal with those with a Cancard. Outside of these hours, an out of hours verification service will be in operation.

Each cardholder will be given a pack with guidance around the Cancard, how to interact if stopped and advice on dealing with the Police.

Here are some helpful steps:

- 1. Ask the patient to tap/log in to the Cancard app to verify that their card is genuine. Cancard patients have gone through thorough extensive medical checks to ensure the patient is eligible.*
- 2. Call the policing help line on the card if you are still unsure of the validity. You will find the number on the back of the card. This also provides a back-up service if the patient presents without a phone. This will operate 9am-9pm daily.*

Question 5

Lancashire Constabulary does not have a specific lead for verification of medical cannabis.

Please accept our sincere apologies for the delay in responding to your request.

Your subsequent request for an internal review states:

I am writing to request an internal review of Lancashire Constabulary's handling of my FOI request 'Policy for the verification of prescribed medical cannabis'.

My request was submitted on 22nd March 2022, and The Freedom of Information Act (2000) says:

'A public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'

Despite this, it has now been 49 working days - over double the legal timescale for a response - and therefore your response is 29 working days overdue. I would accordingly politely ask that my original request is responded to substantively and urgently in order to avoid the necessity of raising a complaint with the Information Commissioner's Office (ICO) for non-compliance with the aforementioned legislation.

Your request for internal review has now been considered by the Panel and the outcome is detailed below.

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 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 question and c) state (if that would not otherwise be apparent) why the exemption(s) applies.

As part of the internal review the panel have considered our obligations under the Freedom of Information Act (FOIA) 2000. In accordance with Section 1(1)(a) of the Act you were correctly informed that some of the information you were seeking was held.

I can advise that information required to answer a Freedom of Information request is sought from the

departments who own and retain the requested information. Unfortunately, the relevant departments in this case were experiencing staff absences which did cause some delays.

We are sorry you are dissatisfied with the handling of your request however it is hoped that the above provides an explanation of why there was a delay in our response. It is noted that an apology was provided within the initial response. I also wish to echo this apology that it was not possible to provide a response in a timelier manner on that occasion.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner's Office cannot make a decision unless you have exhausted the complaints procedure provided by Lancashire Constabulary. The Information Commissioner can be contacted via the following link:

<https://ico.org.uk/global/contact-us/> or by telephone on 0303 123 1113.

The Information Commissioner's Office request that you do not contact them by post during the Coronavirus pandemic as their offices are closed.

Yours sincerely

Internal Review Panel

Data Protection Office