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**Information Rights and Disclosure Unit
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Our Ref: LD/DC/FOI/957/18 Internal Review

Date 26th November 2018

This matter is being dealt with by Leigh Davison, Head of Information Rights & Disclosure Unit, Telephone No 0191 3752577

Dear Mr Martin

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 957/16 – Internal Review

I write in connection with your request for an Internal Review dated 6th November 2018, concerning the decision taken by S Teasdale to neither confirm nor deny any information is held following your Freedom of Information request, dated 10th October 2018. I note that you originally requested:

The purpose of an unmarked Police car see in Thinford Street, Metal Bridge, DH6 on the morning of 9th October 2018?

To assist you the vehicle was a Silver Skoda and contained a male uniformed Police Officer and a woman in civilian clothes and both occupants left the vehicle for a period of time before returning to the vehicle and leaving the scene.

I note that S Teasdale has refused to confirm or deny any information is held under Sections 31 (1) (a) and (b) of the Freedom of Information Act 2000 and the file has been forwarded to me to conduct an Internal Review of this decision.

The purpose of writing to you today is to inform you of the outcome of my independent review of the original decision in relation to your request and to explain my decision. I can confirm that Durham Constabulary's (the Force) internal review process provides the mechanism for a decision(s) to be considered afresh by a more senior manager in the Force. Please note this review process does allow the original decision to be partially or completely overturned.

The first thing I did was read the full file of this decision. The next thing I did was analyse the decision made by S Teasdale in terms of your request. I then gave careful consideration to the reasons put forward in your email submission of 6th November 2018 as to why I should overturn the original decision.

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Internal Review Decision

Your request for an internal review has now been considered in relation to the question asked. After carefully weighing up both sides of the argument, the conclusion I have arrived at, following what I contend was a thorough review process completed in an open minded and equitable manner was that the decision taken S Teasdale was the correct decision in this case. I am therefore upholding the original decision to neither confirm nor deny any information is held in relation to this request.

Reasons for Decision

Section 31 (1) (a) and (b) – Law Enforcement

Section 30 (3) – Investigations and Proceedings Conducted by Public Authorities

Section 40 (5) – Personal Information

Section 31 is a qualified and prejudice based exemption and requires the harm to be expressed and the public interest to be considered

Harm

Confirmation or denial that any information is held could reveal Durham Constabulary's capabilities and tactics leading to the Force ability to prevent or detect crime and apprehending offenders being compromised. The information would be useful to those intent on causing disruption or engaging in criminal activity allowing them to identify perceived vulnerabilities in policing capabilities or tactics. In turn this could lead to an increase in crime.

In essence to confirm or deny that any information was held would also in fact confirm if the vehicle mentioned above was a Durham Constabulary unmarked vehicle or suggest it was an unmarked vehicle used by other law enforcement agencies of which Durham Constabulary may or may not be aware.

This would inform the public of the identity of unmarked law enforcement vehicles and also show where investigations were or were not being conducted.

Factors favouring confirmation of information being held

There is a legitimate public interest in knowing Durham Constabulary effectively and efficiently uses public funds in relation to its policing functions. Further the requested information would add to public awareness of the roles, functions of the police within the communities of County Durham and Darlington. The information would add to public confidence in Durham Constabulary being able to respond to the needs of the communities they serve.

Factors favouring non-confirmation of information being held.

Confirming or denying the existence of this information would hinder the efficient and effective conduct the policing functions Durham Constabulary is charged to carry out by compromising its current or future law enforcement capabilities. In this case disclosure of operational staffing levels could be used by those intent on criminal activity to assess the capability and tactics of the Force. Further such disclosure along with disclosure from other Forces would allow a national picture to be formed of perceived vulnerabilities in policing capabilities and tactics leading to targeting of criminal activity on areas or regions perceived as under resourced. This in turn would lead to increased criminal activity and a drain in policing resources.

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Section 30 is a qualified and class based exemption and requires the public interest to be considered.

Factors favouring confirming or denying whether any other information is held

The public are entitled to know what their funds are spent on. Investigations may be closed and any proceedings may have been completed, and the investigations may have been high profile and had national implications.

Factors against confirming or denying whether any other information is held

Durham Constabulary's future law enforcement capabilities could be affected and this would hinder the prevention and detection of crime.

Balancing Test

The public interest test is centred on whether confirming the information requested is held should be made to the world so that any person can view it not just you as the requester. I have considered the impact releasing any further information would have on Durham Constabulary ability to detect and prevent crime against those in the community it serves.

Section 40 (5) Personal Information/Absolute Exemption.

To confirm or deny whether personal information exists in response to your request could publicly reveal information about an individual or individuals, thereby breaching the right to privacy afforded to persons under the Data Protection Act (DPA).

Confirming or denying that information is held would breach an individual's rights under the DPA. Section 40(5) of the Act is an absolute exemption and as such there is no requirement for me to provide evidence of the prejudice that would occur or to conduct a public interest test.

Please note, this notice does not confirm or deny that Durham Constabulary holds the information you have requested.

This should not be taken as necessarily indicating that any information that would meet your request does not exist.

This letter represents a Refusal Notice under Section 17(4) of the Freedom of Information Act 2000.

I realise you will may be disappointed that I am unable to resolve this matter to your satisfaction i.e. disclose the requested information.

Should you be dissatisfied with my review decision in this case, you have the right to refer this matter to the Information Commissioner, as below:

Information Commissioner's Office
Wycliffe House

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Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone Number: 01625 545700
Website: www.informationcommissioner.gov.uk

Yours sincerely

L Davison
Head of Information Rights and Disclosure Unit

We are very keen to ensure that we are tackling issues which matter to you in your community. With our colleagues in the local authority, we have developed Police And Communities Together (PACT) meetings = to ensure that you have a chance to engage with local officers from your beat team and tell us your concerns.

This is your opportunity to influence what we focus on, where you live.

You can find out more about PACT:

By ringing Durham Constabulary on 101

By logging on to www.durham.police.uk

By following us on Twitter and Facebook

PERSONAL

Mr James Martin

https://www.whatdotheyknow.com/request/purpose_of_unmarked_car_in_thinf

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