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Mr L Taylor
request-23566-82d44090@whatdotheyknow.com

Date: 17th December 2009

Tel No.: (DDI) 01622 654429

FOI Ref.: 8804/2009

Dear Mr Taylor,

FREEDOM OF INFORMATION REQUEST 8804/2009

I write in connection with your request for information received by Kent Police on 22nd November 2009. I note that you requested the following information:

Please supply the Name and Rank of all personnel currently authorised by the Chief Constable of Kent Police, to demand information, particularly the name of a driver, from the registered keeper of a vehicle under the above Act.

Section 172 of the Road Traffic Act refers to the obtaining of information on behalf of the Chief Officer of Police. However, all officers of the rank of constable or above employed by Kent Police have the authority to request information from drivers or the registered keeper of a vehicle in accordance with the Road Traffic Act 1988, Section 165, as detailed below.

165 - Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates

(1) Any of the following persons—

- (a) a person driving a motor vehicle (other than an invalid carriage) on a road, or*
- (b) a person whom a constable has reasonable cause to believe to have been the driver of a motor vehicle (other than an invalid carriage) at a time when an accident occurred owing to its presence on a road, or*
- (c) a person whom a constable has reasonable cause to believe to have committed an offence in relation to the use on a road of a motor vehicle (other than an invalid carriage),*

must, on being so required by a constable, give his name and address and the name and address of the owner of the vehicle and produce the following documents for examination.

Therefore you have effectively requested the name, rank and date of joining the Force of all Police Officers in Kent Police. This information is exempt from disclosure under Section 31 – Law Enforcement and Section 40 – Personal Information.

Section 31 (1) Law Enforcement

(1) Information, which is not exempt information by virtue of section 30, is exempt information if its disclosure under this Act would, or would likely to prejudice -

- (a) the prevention or detection of crime*
- (b) the apprehension or prosecution of offenders*
- (c) the administration of justice*

Section 31 is a prejudice based qualified exemption and there is a requirement to articulate the harm that would be caused in providing this information as well as carrying out a public interest test.

A police officer working in an overt capacity should provide their details to a member of the public upon request. There is also considerable information available on the Kent Police website: www.kent.police.uk regarding individual neighbourhood police officers, providing details of their name and rank.

However, if Kent Police disclosed the names and ranks of all our officers, this could identify officers working in covert or sensitive roles, which would negatively impact upon their ability to covertly gather information, and would impact upon surveillance operations, thus affecting the flow of information to the force. In the worst of circumstances, this could result in officers engaging in covert activities being identified at serious risk to their personal safety. This in turn may affect ongoing investigations where surveillance is necessary, assisting criminals to escape detection and remain at large, thereby further endangering public safety, which is of paramount importance to the police service.

There is clearly a high level of harm that has been identified that it is likely would be caused by the release of this information. This would impact on public safety, which is of paramount importance to the police service, and result in intelligence not being successfully gathered for investigations, and arrests not being made in regard to serious offences, therefore putting the public at risk by allowing often dangerous criminals to remain at large.

In this case, there are very few factors that favour disclosure and the arguments against disclosing this information would clearly result in harm to public safety and law enforcement. Therefore, after weighing up the competing interests, I believe that the harm considerations and the importance of the factors favouring non-disclosure outweigh those considerations favouring disclosure, and therefore the disclosure of the requested information would not be in the public interest.

The personal information, including the names and ranks of all Kent Police Officers, would also be exempt under Section 40(2) of the Freedom of Information Act 2000 (Personal Information).

I have included the relevant part of this exemption and the explanation for the application of this exemption below.

Section 40(2) Personal Information

Any information to which a request for information relates is also exempt information if

(2)

- (a) it constitutes personal data which do not fall within subsection (1), and*
- (b) either the first or the second condition below is satisfied.*

(3) The first condition is

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

- (i) any of the data protection principles*

In this case to provide the names of all officers would be unfair on officers working in junior, non-public facing roles. Kent Police believe that the individual would not reasonably expect that their details would be released under the Freedom of Information Act.

To release the names of individuals contrary to their reasonable expectations or any substantial public interest would amount to a breach of the first principle of the Data Protection Act 1998, the right to fair and lawful processing.

If you have any concerns regarding the conduct of a specific Police Officer a complaint should be submitted to our Professional Standards Department at Kent Police Headquarters.

Thank you for your interest in Kent Police. If you have any further queries concerning your request, or the application of the Freedom of Information Act in general, please contact this office quoting the reference number shown above.

Yours sincerely,

Julia Potten
Freedom of Information Administrator

Your right to complain

We take our responsibilities under the Freedom of Information Act seriously but, if you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. We will conduct an internal review to investigate the matter and endeavor to reply within 20 working days. If your appeal concerns the decision to apply an exemption, it would assist the review if you would outline why you believe the exemption does not apply.

You may lodge your complaint by writing to:

Supt. Paul Gladstone
Head of the Information Compliance Unit
Professional Standards Department
Kent Police Headquarters
Sutton Road,
Maidstone
Kent
ME15 9BZ

Or by e-mailing
freedomofinformation@kent.pnn.police.uk

If you are still dissatisfied following our internal review, you have the right under section 50 of the Act to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect you to have exhausted the complaints procedures provided by Kent Police.

The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF