



Derbyshire Constabulary

Ms Emma Lowther

Telephone: 101
Direct Line: 0300 122 8752
Ask For: Freedom of Information
Our Ref: 001438/21
Your Ref: Stonewall Submissions
Date: 27 October 2021

Dear Ms Lowther

FREEDOM OF INFORMATION REQUEST - REFERENCE NO: 001438/21

I write in connection with your request for information which was received by Derbyshire Constabulary on 11/03/2021. I note you seek access to the following information:

Submissions made to, and feedback received from, the Stonewall Diversity Champions Scheme in the years 2010-2020

Result of Searches

Following receipt of your request, searches were conducted within Derbyshire Constabulary to locate any relevant information. The searches located some information relevant to your request.

Decision

I have today decided not to disclose all the located information to you in full as I am claiming an exemption under Section 40(2) - 'Personal Information' of the Freedom of Information Act 2000; the rationale for which is shown below.

Please see the attached documents for information I am prepared to release at this time.

Additionally please be advised that whilst we have in full the 2018 submission we do not have the 2017 submission. The rationale for this is that in 2017 submissions were made via an online Stonewall Portal from which we cannot download the file.

Refusal of Request - Section 17

Section 17(1) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant 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) - Personal Information

Section 40 is an absolute class-based exempt that does not require a public interest test save on rare occasions.

Where the request for information relates to third parties (anybody other than the data subject), it is absolute under S40(2) if disclosure would breach any of the data protection principles.

On this occasion the documents as retrieved contain names of individuals, contact details and photographs. To release without some redaction would, in my opinion, breach Article 6 of the Data Protection Act 2018 namely *Lawfulness of Processing*.

Given the premise of the FOIA, i.e. a release to the world not just the applicant to prevent any personal disclosure I have removed such information. Where this has occurred there are blank spaces or 3 dots - ...

This view takes in to account the fact that a disclosure under the Freedom of Information Act is a disclosure to the public at large and not just the applicant. Consequently, the public authority, if prepared to disclose, has to be aware of this and content to release to anyone who asks subsequently. It also has to be aware that data following such release may be made public by the recipient in any medium they choose. The Tribunal in the case of *Guardian & Brooke v The Information Commissioner & the BBC* (EA/2006/0011 and EA/2006/0013) (following *Hogan and Oxford City Council v The Information Commissioner* (EA/2005/0026 and EA/2005/0030)) confirmed that, “*Disclosure under FOIA is effectively an unlimited disclosure to the public as a whole, without conditions*” (paragraph 52):

An additional part of my decision-making rationale was consideration of the argument that in some instances cases there may have been some form of press release/media coverage which, as a result, may have negated the application of this exemption. However, whilst I concede this is the case any such release would have been done in a limited ‘window of opportunity’.

Right to Request a Review (Complaint)

Your attention is drawn to the attached sheet, which details your right of complaint.

I would like to take this opportunity to thank you for your interest in Derbyshire Constabulary.

Should you have any further enquiries concerning this matter, please write or contact the Freedom of Information Officer, on the above telephone number quoting the reference number in the header.

Yours sincerely

Kevin Lea
Freedom of Information Officer

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