

Mr Steve Elibank

request-89309-bff6db39@whatdotheyknow.com

Our Reference: FOI 177/11

8th November 2011

Dear Mr Elibank,

I am writing with reference to your request for information regarding the witness protection course, dated 12th October 2011, made under section 1(1) of the Freedom of Information Act.

You asked for the following information:

'Please provide me with an electronic copy of all materials, presentations, handouts and so on which were used as part of your Witness Protection Course in July 2010.'

I can confirm that the NPIA holds the information you have requested but it is being withheld as we consider it to be exempt from the right of access in accordance with section 31 (a)(b)(c) and Section 43 (2) of the Freedom of Information Act 2000. Please see below for the application of this exemption.

Application of Exemption

Section 31 Law Enforcement and 43 Commercial Interests.

This exemption is a prejudice based, qualified exemption and therefore the legislators accept that there may be harm if information falling within the scope of the exemption were to be released. However, we are required to evidence the harm and consider the balance of public interest in releasing the information.

Harm under Section 31, Law Enforcement

The requested training material contains sensitive information relating to witness protection and policing tactics. To release this information would reveal current policing strategies, tactics, and operational activities that have been deployed in the arena of the protected persons. The reason the Police Service has a witness protection programme is that serious criminals intend to kill or seriously harm the witnesses to prevent their evidence being heard before a court. The acceptance of a witness in the programme is a very serious step and means that their life has already been risked assessed as under threat by the defendant or their associates. Any public availability on how we run the programme would give these criminals information on where and how protected witnesses are located as well as methods relating to managing their new identities. This information would be utilised to try and locate persons within the scheme.

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This would also impact on the confidence of the scheme that protected persons within have. This may lead to less people coming forward and giving evidence in the most serious of cases in the future.

This would also damage how the NPPIA and the police service conducts and operates in this field and reveal established processes and procedures such as, how identities are created and maintained. Identities that are in use or have been used in operations are put at risk, and is also likely to harm future operations as well.

Public Interest Test under Section 31

Section 31, Law Enforcement of the Freedom of Information Act is a qualified exemption and the Public Interest Test is assessed below. This considers whether or not it would be beneficial to the community at large to disclose the requested information.

Consideration favouring disclosure:

Disclosure would demonstrate that the police service and the NPPIA are taking witness protection seriously and have the correct and proper procedures in place or highlight any deficiencies. It is important to increase public confidence in this area, especially with potential witnesses who maybe required to enter a witness protection programme.

Considerations favouring non-disclosure:

If disclosed, this information would undermine the police handling of witnesses in very serious cases where ultimately their life is at threat. Any disclosure of this kind would likely be to the detriment of witness protection strategies and tactics used, and deter further witnesses from coming forward.

Harm under Section 43 (Commercial Interests)

Disclosure of this information would require a complete redesign of current practices and for additional measures to be implemented to compensate for the harm in disclosure. This would be at considerable cost to the NPPIA and the police service to quickly implement temporary counter-measures to existing programmes and would hinder future cases where witness protection is required, until the new processes and procedures are in place.

Public Interest Test under Section 43

Section 43 (Commercial Interests) of the Freedom of Information Act is a qualified exemption and the Public Interest Test is assessed below. This considers whether or not it would be beneficial to the community at large to disclose the requested information.

Consideration favouring disclosure:

Disclosure would demonstrate that the police service and the NPIA are taking witness protection seriously and have the correct and proper procedures in place and highlight any deficiencies. It is important to increase public confidence in this area, especially with potential witnesses who maybe required to enter a witness protection programme.

Considerations favouring non-disclosure:

Disclosure of the operational strategies and tactics dealing with witness protection would necessitate a redesign, at considerable cost, to those currently employed in witness protection. This would also include the cost for any resources required to cover any additional requirements which would be needed in any redesigned programme.

Balancing Test:

This balance test is to determine if the benefits to the public outweigh the harm it would or may do if the information were to be disclosed.

The NPIA accepts that a degree of transparency of information regarding witness protection is required; however, this should not be at the expense of cases where these measures are employed or where there is the risk of serious harm to an individual.

The information requested contains the current practices used when dealing with the protection of 'at risk' witnesses; this includes how the witness identities are created and maintained. If disclosure of this information would put these processes and individuals at risk, then the information should not be released as to do so would establish a precedent. Each successive disclosure and redesign of witness protection tactics, processes and procedures, would be seriously diminished until no amount of additional resources would prove effective.

The safety of those currently in witness protection aside, the cost of continual redesign and adjustment would prove prohibitive and could not be justified; especially in the current climate of public sector funding.

Decision:

On this occasion, the NPIA has determined that the factors favouring non-disclosure are outweighed by those favouring disclosure and that the public interest falls in favour of withholding the exempt information. The NPIA has therefore decided to not to release the exempt information.

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 investigate the matter and endeavour to reply within 20 working days. You should write to:

Anne Taylor
Head of Secretariat and Policing Portfolio Unit

C/O FOI Team
National Policing Improvement Agency
10th Floor (East),
New King's Beam House,
22 Upper Ground,
London,
SE1 9QY

E-mail: NPIAFOI.InternalReviews@npia.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 the NPIA. The Information Commissioner can be contacted at:

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

Further information about the NPIA is routinely published on our website at www.npia.police.uk or through our publication scheme. If you require any further assistance in connection with this request please contact us at our address above.

Yours sincerely,

Andy Woodgate
Knowledge and Information Management Advisor
National Policing Improvement Agency