

Our Ref: 001462/13



Freedom of Information Section
Nottinghamshire Police HQ
Sherwood Lodge, Arnold
Nottingham NG5 8PP

Tel: 101
Ext 800 2507
Fax: 0115 967 2896

22 April 2013

Request under the Freedom of Information Act 2000 (FOIA)

I write in connection with your request for information, which was received by Nottinghamshire Police on 21 February 2013.

Following receipt of your request searches were conducted within Nottinghamshire Police to locate the information you require.

Please find below answers to your questions:-

RESPONSE

Under S 1 (1) (a) of the Freedom of Information Act 2000 (FOIA), I can confirm that Nottinghamshire Police does hold the information you have requested.

- 1. What criteria must be satisfied for an Osman Notice to be issued?***
- 2. What information must be provided to the Police for an Osman Notice to be issued?***

Firstly, it should be acknowledged that there is no such thing as an 'Osman Notice'. What is now commonly referred to as a 'Threat to Life' warning was initially known as an Osman Warning due to the case law which gave rise to it (Osman –v-UK 1998).

A warning to an intended victim may be issued when the Officer in charge believes that the intended victim should be made aware of a threat/risk against them. As a general rule, when a person is considered to be in real and

immediate danger from the criminal actions of another, the Police should warn the intended victim. The purpose of such a warning is to notify the potential victim of the existence of a threat/risk towards them and allow them to take precautionary steps to protect themselves, or to allow them an opportunity to consider the protective measures proposed by the Police.

4. Is there any reason to doubt the authenticity of the attached Notice?

a. Is it in the correct format?

b. What is the procedure for serving an Osman Notice?

Nottinghamshire Police can neither confirm nor deny that any information is held relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 40(5) Personal Information

Section 40 subsections (1) and (2) is a class based absolute exemption, however Section 40(5) is not, as it is not listed in the schedule of absolute exemptions in Section 2(2). When citing Section 40(5), there is a requirement to articulate the public interest to the applicant to ensure that neither confirming nor denying that information exists is the appropriate response.

Harm in Confirming or Denying that Information is held

The Code of Practice on Management of Police Information, as recommended by the Bichard Inquiry and associated guidance, sets national standards for the management of police information, including intelligence material, its physical security and security of sensitive material. They are the authority on all questions of integrity of intelligence material and must be included as part of the operational protocols of the National Intelligence Model.

The National Intelligence Model is adhered to by all police forces across England and Wales. It is a business process with an intention to provide focus to operational policing and to achieve a disproportionately greater impact from the resources applied to any problem. It is dependant on a clear framework of analysis of information and intelligence allowing a problem solving approach to law enforcement and crime prevention techniques.

It is publicly acknowledged that Threat to Life Warnings are issued when there is intelligence to suggest an individual's life is in danger, but there is not enough evidence to justify the police arresting the suspected murderer, see below link:

http://en.wikipedia.org/wiki/Death_threat

Disclosure of Threat to Life Warning data at this specific level becomes more meaningful and there is a risk of the persons involved being identified. While this is unlikely to happen amongst the general population, those involved in

the types of criminality likely to result in the issue of such a warning may be able to draw a significant conclusion from the information.

The impact of confirming or denying whether information is held at the level requested would provide intelligence to the criminal fraternity which would aid in the location and/or identity of persons under threat of death. Such an action has the potential to undermine the flow of information (intelligence) received from members of the public into the Police Service.

Public Interest Considerations

Section 40(5) - Personal Information

The duty to neither confirm nor deny under this section of the Act arises where the disclosure of the information into the public domain would contravene any of the data protection principles or Section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded.

Irrespective of what information Nottinghamshire Police may or may not hold, any request which has potential to identify a third party by citing an exemption, would attract a neither confirm nor deny response that information is held by virtue of Section 40(5) as it constitutes personal data of an individual other than the applicant and disclosure would contravene the first data protection principle which states in part that personal data shall be processed fairly and lawfully.

Since the notice which was provided within your request relates to an individual, confirming or denying that this notice has been issued by Nottinghamshire Police would be likely to breach the first principle of the Data Protection Act which states in part that: "Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 is met, and in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."

Balancing test

The Police Service relies heavily on the public providing information and has a duty to protect and defend vulnerable persons. The public has an expectation that any information they provide will be treated with confidence. Public safety is of paramount importance and the Police Service will not disclose anything that would jeopardise public safety.

In addition anything that places that confidence at risk, no matter how generic, would undermine any trust or confidence the individuals have in the Police Service.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirmation or denial is not made out.

No inference can be taken from this refusal that the information you have requested exists or does not exist.

3. How is an Osman Notice issued?

7. Any other information in respect of the cause, issue and cease of an Osman Notice?

Nottinghamshire Police can neither confirm nor deny that any information is held relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 30(3) Investigations
Section 31(3) Law Enforcement
Section 38(2) Health and Safety

Section 30 is a class based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying the information exists is the appropriate response.

With Sections 31 and 38 being prejudice based qualified exemptions there is a requirement to articulate the harm that would be caused in confirming or not whether information is held as well as carrying out a public interest test.

Section 30/31

Factors favouring confirming or denying that information is held

Confirmation or denial that any information exists relevant to the request would lead to a better informed public which may encourage individuals to provide intelligence in order to reduce crime. Confirmation or denial would highlight where police resources are being targeted and the public are entitled to know how public funds are spent, particularly in the current economic climate.

Factors against confirming or denying that information is held

Confirmation or denial that any information is held in this case would suggest Nottinghamshire Police take their responsibility to protect the safety of individuals flippantly. It could also adversely affect public safety if the criminal fraternity is provided with a tactical advantage of where individuals are located who have received Threat to Life notice). Additionally any covert investigative activity could also be highlighted.

The Police Service relies on information being supplied by the public. In this case the request relates to specific procedures involved in issuing an Osman notice. Confirming or denying that information is held would act as a deterrent to the public to provide information (intelligence) to the force which would undermine public safety.

Balancing test

The points above highlight the merits of confirming or denying the requested data exists. The Police Service relies heavily on the public providing

information and has a duty to protect and defend vulnerable persons. The public has an expectation that any information they provide will be treated with confidence. Public safety is of paramount importance and the Police Service will not disclose anything that would jeopardise public safety.

In addition anything that places that confidence at risk, no matter how generic, would undermine any trust or confidence the individuals have in the Police Service.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirmation or denial is not made out.

No inference can be taken from this refusal that the information you have requested exists or does not exist.

5. *What steps will the Police take following the issue of an Osman Notice?*

6. *Is there any conclusion to an Osman Notice?*

In respect of the above two questions, this would depend entirely upon the circumstances of the case in question and would be dynamically risk assessed at the time to determine what steps would need to be taken.

Complaints Rights

Your attention is drawn to the enclosed review procedure, which details your right of complaint.

Copyright

Nottinghamshire Police in complying with their statutory duty under Sections 1 and 11 of the Freedom of Information Act 2000 (FOIA) to release the enclosed information will not breach the Copyright, Designs and Patents Act 1988. However, the rights of the copyright owner of the enclosed information will continue to be protected by law. Applications for the copyright owner's written permission to reproduce any part of the attached information should be addressed to the Force Solicitor, Nottinghamshire Police, Force Headquarters, Sherwood Lodge, Arnold, Nottinghamshire, NG5 8PP.

I would like to take this opportunity to thank you for your interest in Nottinghamshire Police.

Should you have any further enquiries concerning this matter, please write or contact the Freedom of Information Officer on telephone number 0115 9672507 or e-mail freedomofinformation@Nottinghamshire.pnn.police.uk quoting the above reference number.

Yours sincerely

Disclosure Officer

Are you dissatisfied with your response?

If so, prior to lodging a formal complaint, you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again

The quickest and easiest way to have the decision reconsidered is to telephone the case officer that is identified at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

Formal Independent Review

If you are dissatisfied with the handling procedures or the decision made by Nottinghamshire Police under the Freedom of Information Act 2000, you can request an Independent Review.

Upon receipt for a review of the initial request response, an independent audit officer from Information Management will review the request and assess whether it has been satisfactorily processed in accordance with policy and procedure.

Requests for Independent Reviews requests should be made in writing to-

Force Information Manager
Nottinghamshire Police
Force Headquarters
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

The Audit officer will record and communicate his/her decision to the information requester within 20 working days.

Appeals

If the findings of the formal independent review do not meet your approval, you can register an appeal against the decision.

An investigation will then take place by the Freedom of Information officer, which will be reported and presented to the Internal Appeal Board. This will include a full account of the reasoning for or against disclosure and the application of any relevant exemptions.

The Internal Appeal Board will consist of at least a member of the Chief Officer Team, a member of the Legal Team and the Force Information Manager.

Appeals should be registered in writing to:

Freedom of Information Officer
Nottinghamshire Police
Force Headquarters
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

Alternatively E-mail: Freedomofinformation@nottinghamshire.pnn.police.uk

Or call: 01159672507

Applications to the Information Commissioner

If you then remain dissatisfied, you may make an application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make an application to the Information Commissioner, please visit their website at www.informationcommisioner.gov.uk

Alternatively, Write to:

Information Commissioner's Office
Wycliffe House
Water lane
Wilmslow
Cheshire
SK9 5AF

Or call: 01625 545700.