

Our Ref: 005625/15



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

Tel: 101
Ext 800 2507
Fax: 0115 967 2896

22 September 2015

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 20/08/2015.

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

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.

Please find below answers to your questions:-

This is a request under the Freedom of Information Act 2000.

Please make available on the internet all police video footage of the eviction of Tom and Sue Crawford from their home at 3 Fearn Chase, Carlton, on 2 July 2015.

In relation to your request the following exemptions are engaged; Section 40: Personal Information and Section 38: Health and Safety.

Section 40 is an absolute class-based exemption and a public authority is not obliged to conduct a prejudice test or a public interest test, however, for Section 40 to be engaged, it must show that disclosure of the requested information would be considered as being a breach of one or more of the Data Protection Principles.

It is incumbent upon the Chief Constable of Nottinghamshire Police to process data held by him in accordance with the principles set forth in the Data

Protection Act 1998. The information you have requested will contain personal data that relates to individuals captured on any video footage taken, who may be identified from this data. This is an absolute exemption, which means that there is no requirement to consider whether there is a public interest in disclosure.

Personal data is regulated under the principles set forth in the Data Protection Act 1998 and when information contains personal data about a third party it can only be refused if disclosure would breach any of the data protection principles.

In this instance, I am satisfied that the information requested is personal data as it contains information pertaining to living individuals who would be fully recognisable on any video footage disclosed. If this data were to be released under FOI it would effectively become a disclosure to the world. I have no doubt that it would impact on the privacy of the individuals concerned in their private life and that disclosure would breach principle 1 of the Data Protection Act: Fair and lawful processing.

Additionally, Police Officers taking part in this Operation will also be identified and therefore, Section 38: Health and Safety has been considered in relation to your request.

Section 38 is a prejudice based qualified exemption which requires the prejudice (harm) to be evidenced and a public interest test to be carried out. This means that even if the information requested is exempt the public authority must decide whether the public interest in maintaining the exemption outweighs the public interest in its disclosure. In other words the harm that would be likely to be caused to any individual by the disclosure would be greater than the public interest in the disclosure.

Upon completion of this process I am then required to ascertain where the balance in compliance with both my duty to confirm or deny that information exists and/or in disclosure of any relevant information lies. Please see below.

Overall Harm for Section 38

Disclosures under the Freedom of Information Act are disclosures to the world, not just to the individual making the request. Therefore disclosure of information such as identities of participating Officers would create a permanent record of details of Officers and would be available to anyone wishing to use such information to target individuals. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. In order to achieve these objectives police officers need to be able to carry out their duties without fear of increased threat to their personal safety or that of their colleagues or family.

Public Interest Considerations

Section 38

Considerations favouring disclosure

One of the underlying principles of the Freedom of Information Act is the need for authorities to be more open and transparent. Officer's collar numbers and names are visible on their epaulettes and there were over 100 protesters there on the day in question, along with local/ national media. There were also a number of cameras taking pictures of officers which would obviously show their identities. Members of the public have the right to request an Officers collar number and be provided with such as it maintains Officer accountability and assists the public with any recourse should they wish to pursue a legitimate grievance. Collar numbers allow for the unique identification of individual Officers when a name may not suffice.

Considerations favouring non-disclosure

Providing the requested information would create permanent record of details of those officers at the event and there are concerns around the safety of officers. Disclosure of the information may enable individuals or criminal organisations to identify individual Officers and risk the identification of individuals outside of their policing duties. There have been postings on social media sites and forums regarding the obtaining of photographs of Officers and their collar numbers in order to identify them and suggesting action will be taken once this has been successful.

Nottinghamshire Police are aware that there has already been a targeting of some individual Officers both before the Operation and in the aftermath. Social media conversations showed that there was some monitoring of Nottinghamshire Police personnel (both on and off duty) involved in the operation and a personal safety reminder was issued to all staff involved. Prior to the Operation an Officer was followed to their home address and also intercepted on their way to work. One Officer reported that a member of their family had been approached in what was believed to have been an attempt to ascertain a home address and we are aware of social media postings to follow and trace another Officer who was believed to have been recognised.

This targeting of individual Officers clearly shows attempts to track Officers outside of their police roles and establish home addresses. While perceived threats have so far appeared veiled, the consideration around Officer safety cannot be ignored. An escalation from the threats has been seen with reports of violence against security at the property. In this case the disclosure of information may assist individuals to further their aims by violent means, thus putting the safety of members of the public and police officers at risk.

Balance Test

The Police Service will not divulge information if to do so would prejudice National Security, place the safety of any individual at risk or undermine the rule of law and order. Whilst there is a public interest in the transparency of policing operations, and in this case, the maintenance of Officer accountability, there is a very strong public interest in safeguarding both the operational integrity of the police and its Officers. Disclosure of information that would place the safety of any individual at risk will undoubtedly adversely affect the faith the public places in the Police and have a negative impact on law enforcement. Based on the evidence held of a very real and possible threat to Police, it is our opinion that for these issues the balancing test for disclosure is not made out.

This letter constitutes a refusal notice under Section 17(1) of the Freedom of Information Act 2000 with Section 38(1)(a)(b) and Section 40(2) being applied.

38. – (1) Information is exempt information if its disclosure under this Act would, or would be likely to –

- a) endanger the physical or mental health of any individual, or
- b) endanger the safety of any individual

40. – (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if –

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

(3) The first condition is –

- a) in a case where the information falls within any of the 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, or
 - ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

- b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A (1) of the Data Protection Act 1998 (which relate to manual data held by the public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7 (1) c) of that Act (data subject's right of access to personal data).

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?

Nottinghamshire Police has a duty to implement a complaints process in relation to Freedom of Information Act requests. If you are not content with our response, you may appeal, this process is known as an 'Internal Review'

Internal reviews are intended to be a fair and impartial means of reviewing the original request process.

You can appeal about your request if you:-

- Disagree with the Forces interpretation of your request;
- Believe the Force hold more information than has been disclosed to you;
- Disagree with the application of exemptions;

How do I appeal?

All appeals should be made in writing and sent to:-

Information Management
Nottinghamshire Police
Force Headquarters
Sherwood Lodge
Arnold
Notts
NG5 8PP

or alternatively freedomofinformation@nottinghamshire.pnn.police.uk

To deal with your appeal as quickly as possible please provide the unique identification number provided with your response and the reasons for your appeal.

Once we have received your request for appeal, your FOI response will be reviewed in full to identify any problems in the disclosure.

The review will be undertaken by someone different from, and preferably senior to, the original decision maker and this should be completed within 20 working days from receipt, in exceptional circumstances it may be extended by a further 20 working days.

What if I'm still not satisfied?

You can appeal to the Information Commissioner. You can contact the Information Commissioner Office at the following:-

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

Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate)

E-mail: casework@ico.org.uk