



Northamptonshire Police and Crime Commission

Freedom of Information Act Request Response No. 30102017-1

Question

Emails and letters between The PCC and IPCC in relation to the Operation Kalmia report and recommendations for misconduct against retired Chief Constable Adrian Lee

Answer

I am writing to advise you that, following a search of our paper and electronic records, I have established that the information you requested is held by the Office of the Northamptonshire Police and Crime Commissioner.

Northamptonshire OPCC can neither confirm nor deny that it holds any information 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 and proceedings conducted by the public authority

Section 31(3) Law Enforcement

Section 40(5) Personal Information

Section 30 Factors against maintaining a neither confirm nor deny stance

Confirming that information exists could promote public trust in providing transparency and demonstrating openness and accountability into how investigations take place. If an investigation is closed and proceedings have been completed, it would also give the public satisfaction that the investigation was conducted properly.

Section 30 Factors favouring maintaining a neither confirm nor deny stance

By neither confirming nor denying that any information is held, any on-going investigations will not be exposed and therefore will not be prejudiced or undermined. In addition confirmation that any other information does exist could affect the future law enforcement capabilities which would hinder the prevention and detection of crime. In addition, Northamptonshire OPCC would never reveal who, what and when information about a particular individual is recorded as this would clearly undermine the law enforcement and investigative process.

Balance Test - Section 30 Investigations

Confirming or denying whether any information is held in this case would harm any ongoing investigation; therefore it cannot be in the public interest to do so. However, this should not be taken as necessarily indicating that any information that would meet your request exists or does not exist.

Section 31 Evidence of Harm

To disclose that information exists in this instance would undermine policing and affect law enforcement capabilities.

The police have a duty to prevent and detect crime and protect the communities it serves. The disclosure of the requested information could hinder the Police force's ability to conduct those duties. Any ongoing investigations relating to the subject matter may be compromised thus resulting in the victim feeling disappointed and frustrated that the relevant outcome has not been achieved.

The factors favouring disclosure for S31

By disclosing the information the public would see where public funds are being spent in order to protect them. Better public awareness may reduce crime or lead to more information from the public as they would be more observant in reporting suspicious activity especially if they were aware of criminal acts

Factors favouring non-disclosure for S31

By disclosing the information law enforcement tactics would be compromised which would hinder the prevention and detection of those who are of interest in these enquiries.

Section 40(5) - Personal Information / Absolute Exemption

A Freedom of Information Act request is not a private transaction. Both the request itself, and any information disclosed, are considered suitable for open publication. This is because, under Freedom of Information, any information disclosed is released into the wider public domain, effectively to the world, not just to one individual.

To confirm or deny whether personal information exists by identifying addresses and actions in response to your request could publicly reveal information about an individual or individuals, thereby breaching the right to privacy afforded to persons under the Data Protection Act 1998. In this case to confirm or deny that any information is held would breach the first Principle 'fairness'.

Balancing Test

The points above highlight the merits of confirming, or denying, whether any other information pertinent to this request exists. The OPCC will never divulge whether or not information pertinent to this request does or does not exist, if to do so would place the safety of an individual(s) at risk, compromise an ongoing investigation or undermine the policing purpose in the effective delivery of operational law enforcement.

Whilst there is a public interest in the transparency of policing operations and investigations, providing reassurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding the interest of individuals. As much as there is a public interest in knowing that policing activity is appropriate and balanced it will only be overridden in exceptional circumstances

No inference can be drawn from this response as to the existence or not of the information requested

Copies of the requested correspondence requested are attached in a redacted form to this response.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Martin Scoble, Chief Executive, Office of the Northamptonshire Police and Crime Commissioner, West Wing, Force Headquarters, Wootton Hall, Northampton, NN4 0JQ.

Please remember to quote the reference number above in any future communications. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.