

**(1) West Midlands Police began an investigation into alleged irregularities in the sale of former Sandwell Council properties in October 2014. The force previously told me that investigation ran until February 2016. What was the month of start and month of end for the investigation**

It would be misleading / inaccurate to give precise dates because it would tend to be arbitrary. There is often activity before and after the substantial investigation is underway.

Approximate start/end dates of October 2014 – February 2016 - are the most accurate that can be provided.

**(2) and did it have a name eg "Operation Sentinel" if so, what was it please?**

The police operation was called 'Gooseneck'.

**(3) Please list the properties' sales that were investigated eg former public toilets at The Shambles, Wednesbury, former HM Coroner's office in Crocketts Lane, Smethwick**

We can confirm the following properties were investigated

- (a) former public toilets at The Shambles, Wednesbury
- (b) former public toilets at Jervoise Lane, West Bromwich
- (c) former public toilets at Albert Street, Oldbury
- (d) former HM Coroner's office in Crocketts Lane, Smethwick
- (e) 215 High St, Smethwick (associated to (d))
- (f) Development land Lodge St/Stone St, Oldbury.
- (g) Clifford Rd, Oldbury

The sale of one other property formed part of the investigation. The name of this property is exempt by virtue of Section 30 (1) and Section 40 (2).

**(4) Please state how many individuals gave formal statements**

Thirty (non-police) witnesses gave formal statements to the investigation. Some of these witnesses gave more than one statement. Many more individuals were spoken to but did not give formal statements.

**(5) how many as witnesses/how many as suspects**

Formal statements are always only given by witnesses. Suspects are formally interviewed. Four people were formally interviewed.

**(6) Please state the dates and locations of any searches that took place as part of the investigation**

Two searches were undertaken. The dates and locations of those searches are exempt by virtue of Section 30 (1) and Section 40 (2).

**(7) Can the police confirm if any of its officers interviewed [NAME REMOVED], [NAME REMOVED] or [NAME REMOVED] in connection with these allegations?**

**(8) Were they all interviewed as suspects or witnesses?**

**(9) On how many occasions were they interviewed and how long was each interview?**

**(10) How many of those occasions were on a voluntary basis?**

We will neither confirm nor deny that any of this information is held by virtue of section 40(5) of the Freedom of Information Act.

**(11) Were any other suspects interviewed? What were their names?**

The number of people who were formally interviewed is stated above (question 5).

The names of these people are exempt by virtue of Section 30 (1) and Section 40 (2).

**Section 40 questions (3) (6) and (11)**

Personal data, when it concerns the alleged commission of an offence, is considered sensitive personal data. Sensitive personal data is considered the most private of data and is subject to stringent restrictions. In this case to release this data would not constitute fair processing of the data and therefore would breach the first of the principles within the Data Protection Act 1998. As this exemption is class based I am not required to identify the harm in disclosure and in this instance I believe that the right to privacy outweighs any public interest in release.

**Section 30(1) questions (3) (6) and (11)****Public Interest Test**Harm

The requested information relates to an investigation that did not proceed to court. While there are not any current on-going investigations regarding this matter, an investigation could be reopened if new evidence came to light. Avoiding disruption resulting through disclosure to a reopened investigation is in the public interest. This investigation is very recent and ended without a prosecution. There remains the possibility that new evidence may come to light and the investigations may be reopened.

Revealing details pertaining to the investigation may harm public confidence in West Midlands Police. We want to reassure the public that information gathered during the course of an investigation will be handled responsibly and not routinely divulged into the public domain. We would not want to disclose relevant information that may result in individuals being less willing to co-operate in any future criminal proceedings.

Factors in favour of release

Release of this information could promote public trust by providing transparency and demonstrating openness and accountability into how this investigation was conducted. As this investigation concerns the use of public funds release could provide reassurance to the public the matter has been investigated appropriately. This could help to promote public trust in West Midlands Police by providing transparency, and demonstrating openness and accountability.

Information regarding the original investigation is already in the public domain and there has been speculation and unconfirmed allegations. Disclosure of this information could go some way to correcting rumour and speculation and increase public knowledge of the facts of the investigation.

Factor in favour of non-release

The requested information has the capability of interfering with any subsequent proceedings. This investigation has only recently closed. There are a number of instances where witnesses have come forward in cases after considerable periods of time and investigations reopened as a result. There is therefore a public interest in protecting the integrity of those investigations which have been closed without achieving a conviction.

Not all of the speculation and unconfirmed allegations surrounding this case information can be guaranteed to be accurate and while information may appear in the public domain via the media (or websites) its accuracy cannot be taken as definitive without official confirmation. It is clear that there is a substantial amount of speculation and unsubstantiated inference in the public domain and that disclosure of this information could go some way to correcting rumour and speculation and increase public knowledge of the facts of the investigation. However there is a danger that to correct speculation, inaccurate reporting or unconfirmed allegations would inadvertently confirm (or otherwise) other details of the case. It would also be inappropriate to get into a situation where anyone could put spurious accusations on the Internet in an effort to get us to confirm or deny their validity. As this case did not proceed to court it would not be appropriate to place details into the public domain.

Release into the public domain of this information may affect the public's perception of the investigative process and make people more reluctant to cooperate with enquires or to report crime in the future. Under-reporting leads to an increase in undetected crime which has an adverse effect on the community. Therefore to allow a situation to occur whereby details of encounters and/or statements concerning individuals have taken place are routinely disclosed would be likely to prejudice the ability of the public authority to carry out investigations. The ICO has recognised the principle that "the restriction of the flow of information to the police would harm their ability to investigate future cases" [ICO Decision Notice (FS50153447)].

The public must be confident that the Police Service is committed to ensuring that information provided by them will only be used for appropriate purposes and that the confidentiality of any information given will be maintained. Therefore they should be assured that the Police Service would never inappropriately release information that would breach confidentiality.

#### Balancing Test

I recognise that the public interest in being open and transparent is of great importance to all and release of information may assist in the public being more aware of the work that the police are carrying out.

This investigation involves the use of public funds and therefore there are strong arguments to release information regarding this investigation. This is why the majority of the requested information has been released. This balancing test is concerned with the small amount of information that has been withheld.

For a public interest test, issues that favour release need to be measured against issues that favour non-disclosure. Therefore, in considering the public interest in relation to Section 30(1) I have balanced the factors in relation to transparency and accountability against the public interest in maintaining the integrity of this particular investigation and any impact of release on future investigations.

The Police Service is charged with enforcing the law, the prevention and detection of crime and protecting the public. The investigation concerns the expenditure of public funds and therefore merits a high level of public scrutiny. WMP have investigated the allegations of fraud and have concluded that no police action will follow. Therefore we acknowledge that there is a public interest in information regarding the investigation being released into the public domain.

However, the release of the withheld information would not significantly add to the public understanding of the case, beyond providing the names of any suspects. In the information requested there is no indication that the criminal investigation has not been conducted properly, and if anyone believes this to be the case, there are set avenues to appeal.

The information could be used inappropriately to assume the guilt (or otherwise) of individuals who have – or have not - been investigated. As there is no indication of guilt within the investigation this would amount to trial by media. Information Tribunal Decisions EA/2008/0023 & EA/2008/0025 (Mr A Digby-Cameron v the Information Commissioner) stated that that the public interest is served by “the effective investigations and prosecution of crime, which itself requires in particular (a) the protection of witnesses and informers to ensure that people are not deterred from making statements or reports by the fear that they may be publicised, (b) the maintenance of the independence of the judicial and prosecution processes and (c) the preservation of the criminal court as the sole forum for determining guilt”.

In addition I note that there has been an independent and separate investigation carried out on behalf of Sandwell Council. While this investigation is different and follows different rules, the public interest in ensuring that the matter is properly investigated is strengthened by this parallel investigation.

Whilst there is a public interest in the transparency of policing operations and providing assurance that the police service is appropriately and effectively investigating the case, there is a strong public interest in safeguarding the safety of the public and police operations. We would not want to put information into the public domain that could impact any current investigations, hamper any future criminal proceedings or lead to inappropriate allegations.

Furthermore people who give statements to the police do so in the expectation that they will be treated fairly within the existing legal processes. Inappropriate release of personal information could undermine the public's engagement with, and support for, the criminal justice system.

Having considered the arguments for and against the public interest test favours release of material which does not directly impact on investigations or inappropriately name individuals and this has been released. However for the small amount of material that has been withheld, the greater public interest is served in maintaining the integrity of the justice process, and this in turn favours maintaining the exemption.

**Section 40 NCND Questions (7), (8), (9) and (10)**

If any information were held it would be sensitive personal data. As this matter has been investigated but has not proceeded to court it would not be fair to confirm, or otherwise, whether any of the requested data does, or does not exist.

To release this information into the public domain would be distressing and would amount to unfair publicity regarding this case, particularly as it was found that the matter should not proceed to court. Anyone accused of a crime would expect to have the matter investigated properly and for information to be treated accordingly within the accepted rules. It would be reasonable for them to expect that any disclosure would be dealt with according to accepted procedures and no differently to any other disclosure of this type.

We will neither confirm nor deny whether any of this personal data are held by virtue of section 40 (5). As this exemption is class based I am not required to identify the harm in disclosure and in this instance I believe that the right to privacy outweighs any public interest in confirmation or denial.

Nothing in this response should be taken as meaning that any of this data does or does not exist.