

## Public Interest Test

*Applicable exemptions: Section 24 (National Security) and Section 31 (Law Enforcement)*

### Harm

Officer numbers is a highly contentious and emotive subject and it is important that disclosures under the Freedom of Information Act do nothing to endanger our frontline colleagues. Although this request may superficially seem to cause no problems, disclosures on officer numbers can enable reasonably accurate mapping of resources and capabilities.

Disclosing details of the numbers within specialist units would provide a person who may be intent on criminal activities with invaluable information as to the capability and tactical position of the Force in those areas, thus allowing them to adjust their own tactics accordingly.

Release of the information would provide certainty of officer numbers. This, in turn, could lead to deliberate and malicious actions to divert police resources in areas where officer numbers are lower in number.

It has to be remembered that the threat from terrorism cannot be ignored. It should be recognised that the international security landscape is increasingly complex and unpredictable. The UK faces a sustained threat from violent terrorists and extremists and the current national threat level to the UK is 'severe'.

Release of this information would enable organised crime gangs and terrorists to map specialist policing resources across the country and therefore allow them to target perceived areas of weakness or relocate to areas where they feel they are less likely to be detected.

#### *Factors favouring disclosure for Section 24*

This information could go some way towards reassuring the public that the West Midlands Police Force is adequately prepared and able to respond to any terrorist threat. Disclosure could provide the public with an understanding that public funds are being used appropriately and that West Midlands Police is has adequate capability and resources to deal with the current threat.

#### *Factors favouring disclosure for Section 31*

Police Forces need to be properly equipped in order to meet the demands placed upon them. This information could go some way towards reassuring the public that the West Midlands Police Force is adequately prepared in all areas.

#### *Factors favouring non-disclosure for Section 24*

West Midlands Police charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. To release the requested information would impact on the Force's operational and tactical capabilities and ultimately could place members of the public at risk. Revealing resource numbers and structure for specialist areas of policing would compromise security measures and identify areas of potential vulnerability. This would allow those intent on terrorist activity to target their activities and increase the risk of their attacks being successful.

#### *Factors favouring non-disclosure for Section 31*

The release of information disclosing the exact capabilities of West Midlands Police would furnish individuals or groups with the opportunity to fully understand the police capacity and therefore be more effective in carrying out criminal activities. This could be achieved by deliberately diverting resources, or by targeting areas perceived as being more vulnerable. There is evidence that criminals use information to change tactics and method of attack. Therefore the ability of West Midlands Police to prevent and detect crime would be compromised.

It is the duty of the police to protect the public from all criminal attacks. An increase in criminal activities would also impact on trust and confidence within the local communities, with particular areas feeling vulnerable. Therefore the safety and security of the public could be compromised and inappropriate release could cause damage to the service and the community.

### Balancing Test

For a public interest test, issues that favour release need to be measured against issues that favour non-disclosure. The public interest is not what interests the public, or a particular individual, but what will be the greater good, if released, to the community as a whole.

We 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. However, while the public interest considerations favouring disclosure are noted, this must be balanced with the impact any release would have on the operational capability and tactical capabilities of the police.

Because the Freedom of Information Act is 'applicant blind', any information released under the Act is available to everyone. It is well documented that criminals will use every advantage they can gain to successfully carry out their criminality.

Where current or future law enforcement role of the force may be compromised by the release of information, then this is unlikely to be in the interest of the public. In this case, for the reasons outlined above, providing officer numbers for specialist units would hinder the prevention and detection of crime.

There is an inherently strong public interest in public authorities carrying out investigations to prevent and detect crime. To allow the effectiveness of investigations to be reduced, as described in the harm above, is not in the public interest. West Midlands Police need to be allowed to investigate crime effectively and ensure that offenders are brought to justice.

Therefore it is my view that, at this time, the public safety from non-disclosure is of greater importance than the advantage of public confidence from the disclosure of this information. With respect to officer numbers for specialist units it is considered that the wider public interest lies in maintaining the integrity of the justice process, and in protecting the ability of WMP to respond appropriately to emergency calls without compromising any investigation or law enforcement technique. West Midlands Police will not disclose information that could compromise the future law enforcement role of the force.

*In addition to the attached response West Midlands Police will neither confirm nor deny that any further data are held by Virtue of Section 31 (3).*

## **Harm**

The Freedom of Information Act makes it a legal requirement that an authority has to not only provide information, unless it is exempt, but to also confirm whether or not that information is held, unless to do so would in itself provide exempt information. In this case to confirm or deny whether any further information is or is not held could cause a significant risk to the law enforcement capability of the force and place members of the public at risk of harm.

West Midlands Police are charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. To confirm whether any further information is held would provide certainty on specialist tactical capabilities and resources in West Midlands Police.

WMP has a duty to prevent crime, apprehend and prosecute offenders and carry out the administration of justice. Confirming or denying the existence of any further information would impact on the force's operational and tactical capabilities.

## **Considerations that favour confirming or denying**

WMP are accountable to the public for the efficient resourcing, training and budgeting of specialist units and departments, so that the public can be content that our force is fulfilling its responsibility to protect and serve our communities. It is in the public interest to know that the force have sufficient and appropriate resources.

## **Considerations against confirming or denying**

Confirming or denying that any further information is or is not held would provide certainty regarding the force's specialist capacity and capabilities which would compromise law enforcement and place members of the public at risk. Confirmation, or otherwise, could lead to deliberate and malicious attacks to divert specialist resources in areas where officer numbers are lower or may expose a weakness which could be taken advantage of by the criminal fraternity. Revealing any tactical or operational information would prejudice law enforcement which would in turn endanger the safety of both members of the public and officers concerned.

Confirmation or denial would provide the criminal fraternity with valuable information that would assist them with their activities, allowing them the opportunity to alter their behaviour to avoid detection.

Where current or future law enforcement role of the force may be compromised by the release of information, then this is unlikely to be in the interest of the public. In this case, for the reasons outlined above, confirming or denying the existence of further information could jeopardise future police operations and compromise the future prevention and detection of crime.

## **Balancing Test**

For a public interest test, issues that favour release need to be measured against issues that favour non-disclosure. The public interest is not what interests the public, or a particular individual, but what will be the greater good, if released, to the community as a whole.

West Midlands Police is accountable for the spending of public money. However, on balance it is considered that the public interest in confirming or denying whether any further information exists is outweighed by the potential impact release would have on our specialist tactical capabilities and future law enforcement activities, and the potential to place members of the public at risk.

Public safety and effective law enforcement is of paramount importance to West Midlands Police and we will not confirm or deny any information if to do so would place the safety of an individual at risk or undermine the prevention or detection of crime.

Therefore, having considered the arguments for and against, the public interest test favours maintaining the exclusion of the duty to confirm or deny whether the information exists. West Midlands Police will not disclose information that could compromise the future law enforcement role of the force or that could negatively affect our duty of care to all members of the public.