

Public Interest Test - Non-disclosure of linked information on modifications

Section 31 (1) (a) (b) – Law Enforcement

Harm

The Freedom of Information Act (FOIA) is applicant blind. This means that if we were to accede to the request, we would be obliged to make this information available to everyone. Modifications on vehicles in certain specialised roles are used for the purposes of preventing and detecting crime. Disclosing the details, including linked expenditure information on these vehicles, into the public domain under the FOIA could undermine the prevention and detection of crime, which is the foundation upon which policing is built. This would compromise the effectiveness of law enforcement as it could give intelligence to offenders, allowing them to take steps to avoid detection.

Factors Favouring Disclosure

Where public funds are being used by West Midlands Police, the public have an interest in knowing what it is being used for. Disclosure of this information would inform the public of precisely which vehicles their money is being spent on, so that they can be satisfied that it is being used efficiently. We recognise that there is a call for openness and transparency and disclosure of information may aid in showing the public how we direct our publically funded resources to invest in their safety, which is of paramount importance. This in turn may promote and instil greater confidence in the communities that we serve.

Factors Favouring Non-Disclosure

There is an inherently strong public interest in public authorities carrying out law enforcement activities effectively and efficiently to ensure the prevention and detection of crime as well as the apprehension and prosecution of offenders. This aids in increasing the chances of offenders being brought to justice and necessary checks and balances are already in place to safeguard public funds and resources. To allow the effectiveness of either fundamental law enforcement activity to be reduced, as described in the harm above, is not in the public interest. In this case, disclosure could cause allow for the exact identification of vehicles used by West Midlands Police that have modifications on them that aid in detecting crime. Offenders could then change their behaviour to evade detection or destroy evidence if they suspect that they are being observed. Ultimately, this could lead to a negative impact on the operational effectiveness of West Midlands Police and the activities to prevent crime and protect the public.

Balance Test

For a public interest test, issues that favour disclosure 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. In considering the public interest in relation to this request, I must balance the factor in relation to transparency and accountability, against the public interest in ensuring that West Midlands Police are able to appropriately enforce the law.

Whilst I recognise the public interest in promoting transparency where the use of public funds is concerned, I feel that this has already been satisfied with the release of the costs of each vehicle.

Releasing specific details on modifications linked to individual vehicles used certain specialised roles would allow criminals to be able to identify these vehicles, thus undermining operations and compromising law enforcement tactics, meaning that the police service is less effective.

West Midlands Police has a duty to deliver effective law enforcement, ensuring the prevention and detection of crime, and the apprehension of offenders. Therefore it is my opinion that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. West Midlands Police will not disclose information that would compromise the future law enforcement role of the force.

Public Interest Test - neither confirm nor deny whether any other information is held

Harm

Any release under FOIA is a disclosure to the world, not just to the individual making the request. To confirm or not that information is held in relation to this request would reveal whether or not West Midlands Police has any other specialised vehicles. Such awareness would reveal tactical capability and is likely to influence criminals, which may include terrorists or terrorist organisations.

The prevention and detection of crime is the foundation upon which policing is built and the police have a clear responsibility to prevent crime, arrest those responsible for committing crime or those that plan to commit crime. However, there is also a duty of care to the public at large. The UK Police Service has a positive undertaking to protect the public from harm and that duty of care to all involved must be the overriding consideration.

Factors favouring confirming or denying

There is a public interest in the community being made aware of all the facts relating to vehicles in order to ensure complete openness and transparency. In this case revealing whether or not WMP own any other specialised vehicles would provide transparency and may enhance public debate into policing.

Factors against confirming or denying

The deployment of specialised vehicles is measured and, in the case of armed response vehicles, is authorised by chief officers after careful consideration in order to protect the public and apprehend individuals who use lethal weapons as part of their criminality. To confirm information is held would reveal tactical capability and would place West Midlands Police at a tactical disadvantage. In addition, confirmation or denial may also 'create' a fear of crime within the general public relating to armed policing.

West Midlands Police has a duty of care to the community at large and public safety is of paramount importance. If an FOI disclosure revealed information to the world (by citing an exemption or stating no information held) that would undermine the security of the National Infrastructure, offenders, including terrorist organisations, could use this to their advantage which would compromise public safety and more worryingly encourage offenders to carry out further crimes.

The risk to public safety cannot be ignored and West Midlands Police has a responsibility to ensure safety of individuals is protected at all times, as detailed within the harm.

Balancing Test

Whilst there is a public interest in the transparency of policing resources for specialist departments and providing reassurance that the Police Service is appropriately and effectively placing resources, there is a strong public interest in knowing that policing activity with regard to the delivery of law enforcement is appropriate and balanced, this will only be overridden in exceptional circumstances.

Public safety is of paramount importance and any information which would place individuals at risk and compromise law enforcement, no matter how generic, is not in the public interest. The effective delivery of operational law enforcement is crucial to ensure that we carry fundamental duties as police force for the public. Any disclosure which reveals tactical capability would have a negative impact on law enforcement.

As much as there is a public interest in knowing that the delivery of law enforcement is appropriate and balanced, this will only be overridden in exceptional circumstances. Therefore it is our opinion that for these issues the balance test outweighs the need to neither confirm information is held and falls in favour of issuing a neither confirming nor deny refusal.

No inference can be taken from this refusal that further information does or does not exist.