

Public Interest Test

Section 31 (1) G

Harm

West Midlands Police must be given the space to conduct investigations into our own employees, or to commission someone to investigate them on our behalf, without releasing the full findings into the public domain. Those accused of misconduct 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. It is essential that when conducting these investigations our employees are open and honest, without fear that what they have said will be reported in the public domain. We would not want to release any information that would have a detrimental effect on the thoroughness of these investigations

Any person who reports these types of issues, or gives statements regarding them, would expect that information provided by them will only be used for appropriate purposes – that is the investigation of the facts and circumstances of any alleged misconduct. It is reasonable that any person giving a statement in this case would expect that the confidentiality of any information they gave will be maintained, particularly given the sensitive nature of these allegations.

Considerations that favour disclosure

The public must have confidence in the police force that has responsibilities for enforcing the law. This is especially the case when the information concerned relates to allegations of misconduct regarding its own officers. There is a general public interest in disclosing information that promotes accountability and transparency in order to maintain that confidence.

Disclosing information about these investigations would provide a greater transparency in the investigating process and professional standards within the force. It is clear that there is a public interest in public authorities operating in as transparent a manner as possible, as this should ensure they operate effectively and efficiently.

Considerations that favour non-disclosure

Our employees and the general public must be confident that information provided during the course of an investigation will only be used for relevant purposes. Disclosure would therefore undermine the cooperation and openness of individuals and have a detrimental effect on efficiency and effectiveness of police investigations.

Anyone reporting misconduct must be confident that WMP are 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 WMP would never provide information that would breach confidentiality.

There is an inherently strong public interest in public authorities carrying out these types of investigations. This ensures misconduct is identified and dealt with appropriately and that the necessary checks and balances are in place.

WMP actively publish information via the Professional Standards website to advice of Misconduct hearings, therefore information deemed appropriate for released is already available to the public.

Balance

Releasing this material into the public domain would undermine the ability of WMP PSD to undertake such interviews and gather this information in the future. It is clear that (given the nature of the information) the reasonable expectation of those involved would be that this information would not be made public. To do so would make people reluctant to share it in future.

There are appeals processes built into the PSD system which can be exercised by those involved should they disagree with the findings. There are already mechanisms for external scrutiny of these investigations which do not necessitate the publication of such information into the public domain

Having considered the arguments for and against the public interest test favours release of material which does not directly impact on any on-going or future investigations and this has been released. However for the other material the greater public interest is served in maintaining the integrity of the justice process, and this in turn favours maintaining the exemption in relation to the withheld material.

Section 30 (3)

Harm

Inappropriate disclosure of information about an investigation can interfere with that investigation by allowing suspects to change their behaviour, destroy evidence or prepare alibis based on their knowledge of the information known (or not known) by West Midlands Police.

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 details of an investigation would provide confirmation of the existence, or otherwise, of an investigation.

Release of information through the Freedom of Information Act removes any of the legal strictures and assumptions of confidentiality associated with the due legal process. As a consequence any on-going or subsequent court proceedings could be jeopardised where release of information regarding an individual was identified.

Considerations that favour confirming or denying

Transparency

Disclosing information about investigations would provide a greater transparency in the investigating process and the actions of a public authority. It is clear that there is a public interest in public authorities operating in as transparent a manner as possible, as this should ensure they operate effectively and efficiently. Confirming the existence of an investigation could help to ensure that authorities do not overlook issues which they should investigate or that they have good reasons for not investigating.

Considerations against confirming or denying

Public Confidence

The public must be confident that West Midlands Police are 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 West Midlands Police would never confirm or deny the existence or otherwise of information that would breach confidentiality.

Law Enforcement

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 an investigation could jeopardise future police operations and compromise the future prevention and detection of crime.

Efficient and Effective Conduct of the Service

There is an inherently strong public interest in public authorities carrying out investigations to prevent and detect crime. This ensures that offenders are brought to justice and that the necessary checks and balances are in place to safeguard public funds and resources. 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 carry out investigations effectively away from public scrutiny until such times as the details need to be made public, otherwise it will be difficult for accurate, thorough and objective investigations to be carried out.

Legal Proceedings

It would not be in the public interest to confirm or deny the existence or otherwise of information that may be of assistance to offenders/prevent an individual from being brought to justice. The right to a fair trial is of paramount importance and any disclosure which could enhance media attention prior to any proceedings could compromise an individual's right to a fair trial under the Human Rights Act.

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.

The issues of transparency and awareness are noted. However, on balance it is considered that the public interest in confirming or denying whether the information exists is outweighed by the potential impact release would have on individual's privacy and on future law enforcement activities.

Although confirmation of whether or not the requested information is held by the public authority might provide a greater transparency in the investigating process, there are already a number of checks and balances on authorities to assess whether investigations are conducted appropriately. There are legal processes in place to ensure that all parties are given access to all the appropriate information at the time of any trial and subsequently through court records. In addition if a person feels that they have been treated

inappropriately by the police there are clear processes in place to ensure that matters are investigated thoroughly and appropriately.

Releasing information outside of such a schedule could undermine the smooth running of these processes and would impact on future judicial proceedings. Therefore the wider public interest lies in protecting the ability of the public authority to conduct an effective investigation and consider the outcome.

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 reveal personal information or could compromise the future law enforcement role of the force.