

Public Interest Test – 1273A/21**Applicable exemption:**

Section 31(1)(a)(b) - Law enforcement

Evidence of Harm

Modern day policing is intelligence led and law enforcement depends upon the development of intelligence and the gathering and security of evidence in order to disrupt criminal behaviour and bring offenders to justice. As criminals adapt and exploit new technology, the police need to respond by overcoming hi-tech barriers in order to meet their responsibilities. In this case the information relates to the extraction of data from complainants (victims) devices as well as offenders. Revealing the tactical level at which devices are examined would identify operational complexity in the examination of some devices and would undermine the processes involved in preventing or detecting crime and the apprehension and prosecution of offenders.

It is widely known that offenders analyse FOI requests to gain information on how and where they can adapt their methods to undertake illegal activity with the maximum chance of evading detection and apprehension. Although it is not considered harmful to provide very high level data on the overall number of devices awaiting examination, providing any further breakdown of this information presents potential to undermine outstanding current intelligence and investigations and broadcasts information to the public at large which could be used by criminals to evade capture, ultimately disrupting the force's ability to prevent and detect crime effectively.

Factors favouring Disclosure

Disclosure of the information would be in keeping with the overall need for forces to be open and transparent about their capability to undertake thorough and timely investigations in order to bring offenders to justice. Disclosure would raise the general public's awareness that the police are effectively and appropriately investigating all lines of enquiry and where this is less evident, promote public debate to bring relevant forces to account.

Factors favouring Non-Disclosure

When the current or future law enforcement role of the force may be compromised by the release of information, the effectiveness of the force will be reduced. In this case, for the reasons outlined above, the effectiveness of current and future strategies when gathering evidence may be compromised.

The personal safety of individuals is of paramount importance to the police service and must be considered in response of every disclosure. A disclosure under Freedom of Information is a release to the world and, in this case, if an investigation is compromised by disclosing tactical information relating to the extraction of data from digital devices, the impact of a case failing to reach court would no doubt have an impact on any victim's confidence in the force's ability.

Balancing Test

As always the Freedom of Information Act has a presumption of disclosure, unless the prejudice to the community outweighs the benefits. In this case, there is an argument for disclosure, inasmuch as the public have a right to know that every effort is made to gather all relevant evidence, including extracting data from digital devices, but this must be balanced against the negative impact these disclosures can have.

Law Enforcement is reliant upon community engagement, intelligence and evidence gathering and when it is appropriate, information is given to the public. What has been established in this case is the fact that disclosure of the levels used when extracting data would have an adverse effect on the investigative process and on the public prevention or detection of crime and the apprehension or prosecution of offenders. This places the victims of such offending at a greater risk and is not an action the police service would be willing to take. These negatives outweigh any tangible community benefit and therefore the balance does not favour disclosure at this time.