

Public Interest Test – 1552A/21

Applicable exemptions:

Section 23(5) - Information supplied by or concerning certain Security Bodies
Section 24(2) - National Security
Section 30(3) - Investigations by virtue of s30(2)
Section 31(3) - Law Enforcement
Section 38(2) - Health and Safety
Section 40(5) - Personal Information

Harm in complying with s1(1)(a) – to confirm or not whether information is held

Any release under the FOI Act is a disclosure to the world, not just to the individual making the request. To confirm or not that information is held pertinent to this request would reveal whether or not West Midlands Police has received intelligence on a specific subject area from Covert Human Intelligence Sources (CHIS), as well as confirming whether or not these CHIS have received monetary gain for their intelligence.

Police forces work in conjunction with other agencies and information is freely shared in line with information sharing protocols. Modern-day policing is intelligence led and this is particularly pertinent with regard to both law enforcement and national security. The public expect police forces to use all powers and tactics available to them to prevent and detect crime or disorder and maintain public safety. In this case, the use of CHIS with regard to Black Lives Matter (BLM) and environmental groups/protests.

The prevention and detection of crime is the foundation upon which policing is built and the threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The current [UK threat level](#) from international terrorism, based on intelligence, is assessed as severe which means that a terrorist attack is highly likely.

In order to counter criminal and terrorist behaviour, it is vital that the police have the ability to work together, where necessary covertly, to obtain intelligence within current legislative frameworks to assist in the investigative process to ensure the successful arrest and prosecution of offenders who commit or plan to commit acts of terrorism.

To achieve this goal, it is vitally important that information sharing takes place between police officers, members of the public, police forces as well as other law enforcement bodies within the United Kingdom. Such action would support counter-terrorism measures in the fight to deprive terrorist networks of their ability to commit crime.

The impact of providing information under FOI which aids in identifying whether or not West Midlands Police has received intelligence from CHIS relating to BLM and environmental groups/protests, as well as confirming whether payment was received for the intelligence, would provide those intent on committing criminal or terrorists acts with valuable information as to where the police are targeting their investigations.

In addition, to confirm or deny whether information is held in this case has the potential to undermine the flow of information (intelligence) received from CHIS as well as members of the public into the Police Service relating to these types of offenders thereby undermining National Security and leaving the United Kingdom at risk of more terrorist attack.

Public Interest Considerations

Section 24(2) National Security**Factors favouring complying with s(1)(1)(a) confirming that information is held**

The public are entitled to know how public funds are spent and resources distributed within an area of policing, particularly with regard to how the police investigate terrorist offending. To confirm whether or not information exists would enable the general public to hold West Midlands Police to account in relation to how they gather intelligence within areas of policing.

Furthermore, confirming or denying may improve public debate and assist the community to take steps to protect themselves.

Factors against complying with s1(1)(a) neither confirming nor denying that information is held

Taking into account the current security climate within the United Kingdom, no information which may aid a terrorist should be disclosed. To what extent this information may aid a terrorist is unknown, but it is clear that it will have an impact on a force's ability to monitor terrorist activity.

The public entrust the Police Service to make appropriate decisions with regard to their safety and protection. The only way of reducing risk is to be cautious with what is placed into the public domain.

The cumulative effect of terrorists gathering information from various sources would build a picture of vulnerabilities within certain scenarios, as in this case which forces have received intelligence from CHIS relating to this subject area. The more information disclosed over time will provide a more detailed account of the intelligence received into the force relating to these types of protests.

Section 30(3) Investigations**Factors favouring complying with s1(1)(a) confirming information is held**

Confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that West Midlands Police robustly gather intelligence received into their force from confidential sources, relating to protests. This fact alone may encourage individuals to provide intelligence in order to assist with investigations and would also promote public trust in providing transparency and demonstrating openness and accountability into where the police are currently focusing their investigations.

The public are also entitled to know how public funds are spent.

Factors against complying with s1(1)(a) neither confirming nor denying that information is held

Modern-day policing is intelligence led. To confirm or not whether West Midlands Police has received intelligence from a confidential source (CHIS) relating to BLM and environmental groups/protests could hinder the prevention and detection of crime and undermine any ongoing investigations, by restricting the flow of information into the force.

Section 31(3) Law Enforcement**Factors favouring complying with s1(1)(a) confirming information is held**

The fact that the [Police Service use CHIS](#) to assist in the delivery of effective operational law enforcement is published and that in itself favours disclosure.

Factors against complying with s1(1)(a) neither confirming nor denying that information is held

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 assist an offender and such an action would undermine the security of the national infrastructure, by revealing our 'intelligence' thereby highlighting vulnerabilities force by force.

By its very nature, by confirming or denying this information is held would undermine the effective delivery of operational law enforcement. Under FOI there is a requirement to comply with s1(1)(a) and confirm what information is held. In some cases it is that confirmation, or not, which could disclose facts harmful to members of the public, police officers, other law enforcement agencies and their employees.

Section 38 Health and Safety

Factors favouring complying with Section 1(1)(a) confirming information is held

Confirming whether information is or isn't held would provide reassurance to the general public that West Midlands Police use tactical options with regard to the use of Covert Human Intelligence Sources as a means of acquiring intelligence. This awareness could be used to improve any public consultations; debates in relation to this subject and also allow the public to take steps to protect themselves.

Factors against complying with Section 1(1)(a) confirming or denying that information is held

Confirming or denying that information exists could lead to the loss of public confidence in West Midlands Police ability to protect the wellbeing of individuals recruited as CHIS as well as members of the community at large.

West Midlands Police has a duty of care towards any individual who has been recruited as a CHIS. To reveal information via an FOI request which would place the safety of individuals in grave danger, is not in the public interest.

Balance Test

The points above highlight the merits of confirming, or denying, whether information pertinent to this request exists. The security of the country is of paramount importance and the Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. As part of that policing purpose, various operations with other law enforcement bodies may or may not be ongoing. The Police Service will never divulge whether or not information is held if to do so would place the safety of individual(s) at risk or undermine National Security.

Whilst there is a public interest in appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding National Security. As much as there is a public interest in knowing that policing activity is appropriate and balanced in matters of National Security, this will only be overridden in exceptional circumstances.

The public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with any information that is released. Confirming or denying whether information is or isn't held would definitely reveal policing activity and would assist those intent on causing harm. Any incident that results from confirmation or denial would, by default, affect National Security.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirming, nor denying, that information is held with regard to questions 2 & 3 is made out.

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