

West Midlands Police can neither confirm nor deny that they hold any other information relevant to this request by virtue of the following exemptions:

Section 23(5) Information supplied by or concerning, certain Security Bodies;

Section 24(2) National Security

Section 30(3) (by virtue of Section 30(2)) Investigations

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest.

Section 24 is a qualified exemption and as such there is a requirement to evidence any harm confirmation or denial that any other information is held as well as consider the public interest.

Section 30 is a class based qualified exemption and there is a requirement to consider the public interest to ensure neither confirming nor denying any other information is held, is appropriate.

Harm in confirming that Information is held

Disclosure of informants' data could impact on the recruitment and retention of CHIS in general, due to the perception of (rather than the actual) risk of identification. In an Information Tribunal case relating to the payments made to CHIS in Croydon (EA/2010/0006), it was accepted that this argument applied as much to CHIS providing intelligence in relation to national security concerns as to CHIS engaged in countering more traditional criminal threats. In this way, the disclosure of payment information would damage national security through discouraging current national security CHIS from co-operating with the Police Service in other geographical areas, or preventing the recruitment of national security CHIS in the future - regardless of whether the area in question actually currently runs CHIS reporting on serious crime, terrorist or other threats.

Public Interest Test

Section 24 - Factors favouring confirming or denying that any other information is held

Confirming or denial that any other information exists relevant to the request would lead to a better informed public and the public are entitled to know how public funds are spent. The information simply relates to national security and disclosure would not actually harm it.

Factors against confirming or denying that any other information is held

Other organisations outside the Police Service are also widely engaged in rewarding informants in a number of ways, and therefore by confirming or denying that any other information exists relevant to the request would harm the close relationship that exists with such organisations, where trust and confidence in this specific area has been built up in the exchange of information and financial assistance during the Criminal Justice process.

To confirm or deny whether West Midlands Police hold any additional information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place in a given area. This could enable terrorist

groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

By confirming or denying any policing arrangements of this nature would render national security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure on the UK and increase the risk of harm to the public.

Public Interest for Section 30

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Confirming that information exists could promote public trust in providing transparency and demonstrating openness and accountability into how the investigation took place. It could also provide reassurance to the public that the Police Service takes all reports of a crime seriously and conducts investigations appropriately. To confirm could allow the public to have a better understanding of the effectiveness of the Police Service.

However, by its very nature information held relating to informants is sensitive in nature. Under FOI there is a requirement to comply with Section 1(1)(a) and confirm what information is held. In some cases it is that confirmation, or not, which could disclose facts harmful to informants. In some cases their mere existence can place individuals in grave danger. The only methodology which will provide the required degree of protection to those individuals is if the force takes advantage of its ability under FOI legislation to, when appropriate, not confirm or deny that the information requested is or is not held. The Police Service will never disclose information which could identify investigative activity and therefore undermine their investigations. To do so would hinder the prevention or detection of crime.

Balancing Test

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The security of the country is of paramount importance and the Police Service will not divulge whether any other information is or is not held if to do so would place the safety of an individual at risk or undermine National Security. Whilst there is a public interest in the transparency of policing operations and investigations, providing assurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding both National Security and the integrity of police investigations in knowing that policing activity is appropriate and balanced in matters of National Security; this will only be overridden in exceptional circumstances.

These points were agreed by the Information Tribunal in the case of *ICON v Metropolitan Police*, EA/2010/2006, where the request was for informant spend at borough level. Although the information in this case was subject to substantive exemptions, the key public interest balancing point, was highly persuasive.

'CHIS are given strong guarantees that their identities will be protected. In some instances, a prosecution may be stopped rather than risk the identity, or in some cases even the existence, of a CHIS being revealed. We accept the evidence of DI D as to the "paranoia" of those acting, or contemplating acting, as a CHIS and accept that they would view the

disclosure of the disputed information as a breach of confidence that would significantly undermine their confidence in having their identities protected'.

It is therefore our opinion that for these issues the balancing test for confirming or not that any other information is held, is not made out.