

Request Reference: 539A/22

Applicable exemption: Section 30(3) – Investigations and proceedings

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.

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.

Public Interest TestFactors that favour disclosure

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. Releasing details 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.

Accountability:

There is a clear public interest in ensuring that public authorities do not act outside their authority by investigating matters which fall outside their remit. By making certain that public authorities release information in relation to investigations, this should provide the necessary safeguards and satisfy the public interest in this matter.

Factors that favour non-disclosure

Fair Treatment of an Individual or organisations:

The interest of the public is best served by the non-disclosure of information which adversely affects the reputation of an individual e.g. whether they are involved in a police investigation. In this case the request specifically asks for information about individuals.

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 disclose information that would breach confidentiality.

Law Enforcement:

Where the 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, disclosing 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 disclose 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, factors that favour disclosure [of the requested information] need to be measured against factors 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.

Although disclosure of the requested information 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.

Therefore, having considered the factors for and against, it is my opinion that the public interest test favours maintaining the exemption with regard to disclosing any further information. West Midlands Police will not disclose information that could reveal personal information or could compromise the law enforcement role of the force.