

### **Public Interest Test – 619A/23**

#### **Applicable exemptions:**

Section 30 – Investigations and proceedings

Section 31 – Law enforcement

#### **Evidence of Harm**

Should officers currently be subject to investigations for allegations of misconduct, it would likely ensue that in some cases, formal charges may be made. However, we also need to consider that not all allegations are proven and may not lead to a formal charge.

To confirm or deny that any other information is held, would highlight that officers are or are not currently subject to an investigation. Irrespective of whether any other information is or isn't held, ongoing investigations would also be compromised if the offender were made aware an investigation into their behaviour is ongoing, which would enable steps to be taken by them to alter their behaviour and/or destroy evidence.

#### **Public Interest Considerations**

*Section 30 – Factors favouring complying with Section 1(1)(a) confirming or denying information is held:*

Confirming or denying whether any other information exists relevant to this request, would lead to a better-informed general public by identifying that West Midlands Police robustly investigate all aspects of offending, including allegations made against their own officers. This fact alone may encourage individuals to provide intelligence in order to assist with investigations, and promote public trust in providing transparency and demonstrating openness and accountability into where the police are currently focusing their investigations.

*Section 30 - Factors against complying with Section 1(1)(a) neither confirming nor denying information is held:*

Confirmation or denial that any other information is held for this request, would suggest West Midlands Police take their responsibility to appropriately handle and manage intelligence supplied to them flippantly. Under the FOI Act, 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 which would undermine the investigative process, and in such cases, West Midlands Police takes advantage of its ability under FOI legislation to, where appropriate, neither confirm nor deny that information is or is not held. Irrespective of what information is or isn't held, any information which could be used to undermine prosecutions or aid offenders to continue with their abuse, is not in the public interest.

*Section 31 – Factors favouring complying with Section 1(1)(a) confirming or denying information is held:*

Disclosure would provide transparency in the way police officers are dealt with when suspected of inappropriate conduct and illegal actions and may improve public debate into

the credibility of how West Midlands Police deals with these allegations within the force. It would also serve to demonstrate that West Midlands Police are open and accountable.

*Section 31 - Factors against complying with Section 1(1)(a) neither confirming nor denying information is held:*

To confirm or deny that any other information is held, would risk undermining the investigative process whilst determining whether any officer is responsible for improper conduct; 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 undermine an investigation, this could be used to offenders' advantage, which would compromise any potential victims and public safety generally. It may also encourage offenders to carry out further crimes as detailed within the harm above.

West Midlands Police relies on information being supplied by the public. Irrespective of what further information is or isn't held in relation to this request, by applying substantive exemptions would indicate that other information is held and there are currently other ongoing investigations. Such action would act as a deterrent to the public to provide intelligence to the force which would further undermine public safety, with repercussions that could hinder the prevention or detection of crime.

### **Balance Test**

The factors above highlight the merits of confirming, or denying, whether any other information pertinent to this request exists. 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 may or may not be ongoing. The Police Service will never divulge whether or not information pertinent to a request does or does not exist, if to do so would compromise an ongoing investigation, or undermine the policing purpose in the effective delivery of operational law enforcement. Whilst there is a public interest in the transparency of policing operations and investigations particularly in relation to our own officers, it will be overridden in exceptional circumstances. Therefore, at this moment in time, it is my opinion that for these factors, the balance test for neither confirming nor denying that any other information is held is appropriate. No inference can be taken from this refusal that further information does or does not exist.