

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 January 2023

Public Authority: Chief Constable of Nottinghamshire Police
Address: Force Headquarters
Sherwood Lodge Drive
Arnold
Nottingham
NG5 8PP

Decision (including any steps ordered)

1. The complainant requested information relating to modern slavery and missing persons.
2. Nottinghamshire Police provided some information but withheld the remainder, citing sections 21 (information accessible to applicant by other means) and 31 (law enforcement) of FOIA.
3. The Commissioner has considered the application of sections 31(1)(a) and (b) to the information in scope of part (2) of the request withheld by virtue of those exemptions.
4. The Commissioner's decision is that Nottinghamshire Police has correctly applied those exemptions and that the public interest lies in withholding the information.
5. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

6. On 31 January 2022, the complainant wrote to Nottinghamshire Police on behalf of the Anti Trafficking and Labour Exploitation Unit (ATLEU) and requested information, summarised in the following terms:

“1. Please provide:

- a. the name and contact details for the point of contact for modern slavery within your force.
- b. a breakdown of the responsibilities for the point of contact.
- c. confirmation if external organisations and agencies can contact the point of contact directly.

If your force does not have a specific point of contact for modern slavery please confirm this.

2. We understand that each local police force is required to have a policy and/or procedure that details how the force will respond to victims of trafficking and modern slavery. ...

Specifically please provide:

- a. Your force procedure for responding to victims of modern slavery
- b. Your force policy for responding to victims of modern slavery
- c. Where your force has a distinct policy and / or procedure document relating to different situations for modern slavery, please provide:
 - I. the force policy and procedure document for 'county lines'
 - II. the force policy and procedure document for 'cannabis houses'
 - III. the force policy and procedure document for 'domestic workers'.

3. We understand that each local police force is required to have a policy and/or procedure that details how they will deal with reports of missing persons. In this request we seek BOTH the policy and procedure documents.

Specifically please provide:

- a. Your force procedure for responding to reports of missing persons

- b. Your force policy for responding to reports of missing persons
 - c. Your force named point of contact and the contact details for reporting missing persons.
4. Please confirm:
- d. If your force procedure for responding to reports of missing persons has anything in it specifically relating to missing potential or recognised victims of modern slavery (whether they have not yet been referred into the National Referral Mechanism, whether they are still within it after receiving a positive reasonable grounds decision, or whether they have received a positive conclusive grounds decision)
 - e. Your force policy for responding to reports of missing persons specifically relating to missing potential or recognised victims of modern slavery (whether they have not yet been referred into the National Referral Mechanism, whether they are still within it after receiving a positive reasonable grounds decision, or whether they have received a positive conclusive grounds decision)
 - f. Your force named point of contact and the contact details for reporting missing persons specifically if they are a point of contact for missing potential or recognised victims of modern slavery (whether they have not yet been referred into the National Referral Mechanism, whether they are still within it after receiving a positive reasonable grounds decision, or whether they have received a positive conclusive grounds decision)".
7. Following the Commissioner's intervention, Nottinghamshire Police responded on 7 October 2022. It provided some information within the scope of the request but refused to provide the remainder, citing sections 21 (information accessible to applicant by other means) and 31(a)(a) and (b) (law enforcement).
8. The complainant was dissatisfied with the level of redaction applied to the information provided in response to part (2) of the request.
9. Following an internal review Nottinghamshire Police maintained its application of section 31(1)(a) and (b) to the disputed information in scope of part (2) of the request.

Reasons for decision

10. It is not in dispute that Nottinghamshire Police explained that a decision was made to replace all policies with operational guidance for officers.

The Commissioner accepts that the withheld information in this case comprises operational guidance.

11. He also acknowledges that the complainant advised that the same request for information was made to every force in England and Wales and that "no other force has applied a blanket redaction of all operational procedures as has been applied here".
12. The following analysis explains why the Commissioner is satisfied that Nottinghamshire Police was entitled to apply section 31(1)(a) and (b) of FOIA to withhold the information in scope of part (2) of the request, namely the Nottinghamshire Police Human Trafficking / Modern Slavery (HTMS) procedure document.

Section 31 law enforcement

13. Section 31(1)(a) of FOIA says that information is exempt from disclosure if its disclosure would, or would be likely to, prejudice the prevention or detection of crime.
14. Section 31(1)(b) of FOIA says that information is exempt from disclosure if its disclosure would, or would be likely to, prejudice the apprehension or prosecution of offenders.
15. Consideration of section 31(1)(a) and (b) is a two-stage process - even if the exemption is engaged, the information must be disclosed unless the public interest in maintaining the exemption outweighs the public interest in disclosure.
16. Nottinghamshire Police described the withheld operational guidance as "detailed and tactical in how such offences are approached and progressed". It argued that, if it was disclosed, it would clearly benefit those who intend to commit crimes, and assist in them evading action against them.
17. The Commissioner accepts that the potential prejudice described by Nottinghamshire Police clearly relates to the interests which the exemptions contained at sections 31(1)(a) and (b) of FOIA are designed to protect.
18. The Commissioner is also satisfied that the prejudice being claimed is "real, actual or of substance", and that there is a causal link between disclosure and the prejudice claimed. It is clearly logical to argue that the disclosure of detailed operational guidance to officers, in relation to trafficking and modern slavery offences, would make it easier for those intent on criminal activity to commit such crimes and to evade prosecution.

19. The Commissioner therefore considers that the exemption is engaged.
20. Next in the two-stage process, the Commissioner must consider whether the public interest in maintaining the exemption at sections 31(1)(a) and (b) outweighs the public interest in disclosing the information.
21. In balancing the public interest arguments the Commissioner accepts that disclosure may increase public confidence and allow individuals to better protect themselves. It would also help to increase openness and transparency in that it would show the public how Nottinghamshire Police polices issues relating to modern slavery.
22. However, he also recognises the strong public interest in protecting the ability of public authorities to enforce the law. In that respect, he has taken into account the subject matter of the withheld information, and the nature and sensitivity of the content of the operational guidance.
23. The Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption – in this case, the public interest in avoiding likely prejudice to the ability of Nottinghamshire Police to detect and prevent crime and to apprehend or prosecute offenders.
24. The Commissioner considers it clear that there is a very substantial public interest in avoiding those outcomes and that this is a public interest factor of considerable weight in favour of maintenance of the exemptions.
25. Having taken all the above into account, the Commissioner is satisfied that, in the particular circumstances of this case, the public interest in maintaining the exemptions outweighs that in disclosing the requested information.

Right of appeal

26. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

27. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF