

4<sup>th</sup> April 2019

**Freedom of Information Request – Reference No:20190374**

*I write to you with regards to the following that has been reported in the Yorkshire Post with regards to the on going policing of Tree felling in Sheffield.*

*"The email from Superintendent Paul McCurry confirming "three official multi-agency meetings with Amey and Sheffield City Council" had taken place on February 5, 19 and 23, 2018"*

*The email, which related to what information should be published in response to a previous Fol request, added: "Each meeting was audio recorded.*

*I now request the transcript of the meetings referred to in the tapes please*

**RESPONSE**

Section 17 of the Freedom of Information Act 2000 requires South Yorkshire Police, when refusing to provide such information (because the information is exempt), to provide you the applicant with a notice which:

- a. states that fact,
- b. specifies the exemption in question and
- c. states (if that would not otherwise be apparent) why the exemption applies.

**Section 40(2) Personal Information**

**Section 30(1)(a) Investigations and Proceedings conducted by the Local Authority**  
**Section 31(1) Law Enforcement**  
**Section 38 (1)(a)(b) Health and Safety**  
**Section 42(1) – Legal Professional Privilege**

**Section 40(2) Personal Information**

This is an absolute exemption and therefore a Public Interest Test is not relevant. However, for clarity, I will explain my rationale for engaging this exemption.

Section 40(2) provides that information is exempt if it is the personal data of someone other than the applicant and disclosure would breach any of the data protection principles. The term 'personal data' means data that relates to a living individual who can be identified. Information disclosed under the Freedom of Information Act is disclosed into the public domain, effectively to the world, not just to one individual. This would be breaching the right to privacy afforded to persons under the Data Protection Act 1998

**Section 30(1) Investigations and Proceedings conducted by the Local Authority**  
**Section 31(1) Law Enforcement**  
**Section 38(1) - Health and Safety**  
**Section 42(1) – Legal Professional Privilege**

**OVERALL HARM**

It is important to stress that when a disclosure is made under the Freedom of Information Act, it is a disclosure to the world and not to a single individual. In view of this, we may

publish information released under the Freedom of Information Act on our website in order that any member of the public who may wish to view the information can have access to it.

Any release of such information that may be involved in ongoing operations such as Op Quito could compromise the effectiveness of the operation, further lines of enquiry and the integrity of any investigations that may be ongoing.

Disclosing details could also be viewed by those involved, living or working in the community as a breach in confidentiality. This could jeopardise the safety of the general public and SYP staff as well work done within communities to increase the public's confidence in reporting and giving assistance to the Force. In turn it could lead to more crimes being committed which would impact on police resources and place individuals at risk – including those reporting incidents, victims, witnesses etc.

With Legal Privilege there is a very real and significant public interest in protecting the longstanding principle and maintaining confidential communication between parties.

## **PUBLIC INTEREST TEST**

### **Section 30 – Favouring non- Disclosure**

- Any current and/or future investigations could be compromised, by the release into the wider public domain of details concerning individuals involved.
- Individuals may be reluctant to come forward and provide information if they believe that details relating to the investigation could be released, via an FOI request, whilst an enquiry is ongoing.
- Any disclosure of information relating to an ongoing investigation would compromise the right for any individual(s) identified from such an investigation to have a fair hearing, and more importantly the rights of a complainant(s) for a resolution

### **Section 30 – Favouring disclosure**

- The public would have a better understanding of how investigations are conducted by South Yorkshire Police and the public funds used to investigate such cases.
- The publishing of information into the public domain, could lead to more people coming forward with information in respect to incidents in their community

### **Section 31 – Favouring non-disclosure**

- Impact on police resources: Police resources and the Force's ability to operate effectively and efficiently, would be directly affected as this information can be manipulated by those with criminal intent allowing them to operate in those areas and this will ultimately lead to an increase in deployment in particular areas. This may compromise police tactics and capabilities.

### **Section 31 – Favouring disclosure**

- Accountability and Use of Public Funds: There is a legitimate public interest in knowing that the force fulfils its policing functions effectively and efficiently in dealing with particular type of offences and incidents.

- Public Awareness and Debate: Provision of this data would reassure the public that South Yorkshire Police is actively policing certain types of crimes and that safety of communities is paramount.

#### **Section 38 – Favouring non-disclosure**

- Disclosure would provide people intent on criminal means the knowledge to be able to find alternative ways of committing further offences. This may compromise public safety.
- Further investigation could be compromised

#### **Section 38 – Favouring disclosure**

- The public would be reassured that safety in the community is important to the police.
- Disclosure would lead to a better awareness for the community in relation to this topic, and more people may be prepared to come forward with further information.

#### **Section 42 - Factors favouring non-disclosure**

- There is a substantial public interest in the section 42 exemption, which protects the principle of legal privilege. The principle safeguards the confidentiality and openness of all legal or legally related communications and exchanges between parties involved with incidents and the organisation.

#### **Section 42 - Factors favouring disclosure**

- There is a legitimate and significant public interest in the current Tree Felling Programme in Sheffield and SYP involvement. This has been subject to public debate and interest. Disclosure at this time would further inform the public debate and comment in 'real time', as well maintaining openness from SYP

#### **Balancing Test**

I have carefully considered your request for information. The key test when considering the public interest is to establish whether in all the circumstances of the request, the public interest in disclosing the information is not outweighed by that in maintaining the exemption

The Police Service is charged with enforcing the law, the prevention and detection of crime and protecting the public. Whilst there is a public interest in the transparency of policing functions and operations and also providing assurance that the police service is

appropriately and effectively resourced in order to enforce the law, there is also a strong public interest in the safeguarding the public in the communities they live and work.

The Tree felling program is a matter of great public interest and, there has been much media attention, incidents and criticisms directed towards SYP and their involvement along with a need for transparency of decision making which could weigh strongly in favour of disclosing.

I am of the opinion that the strongest reason for withholding information is that due to the relatively recent time parameters, investigations and enquiries may still be continuing. As well as a very real and significant public interest in protecting the longstanding principle of legal privilege. These may be compromised by releasing material pertinent to your request.

As we have already stated, a Freedom of Information request is not just a release to the person making the request, but also to the world. It cannot be clear at present what effect disclosures made by a Freedom of Information response may have upon such enquiries.

With this in mind, I am prepared to disclose as much detail as possible without triggering the above exemptions.