



Reply to: Leah Smith

Tel No: 01953 423506

22 June 2020

Dear Member of Public,

Freedom of Information Request FOI/OPCCN/187

I am writing in connection with your email dated 28 April 2020, in which you requested the following information:

“I am writing to request copies of all written or electronic correspondence (sent or received) between the office of Norfolk Police and Crime Commissioner and:

- 1. Members of Norfolk County Council Press Office**
- 2. Senior members of Norfolk Children’s Services (Service Manager and above)**
- 3. Senior Members of Norfolk Police (Superintendent and above)**
- 4. Members of Norfolk Police Press Office**
- 5. Martin James (Former Norfolk Police Detective Sergeant)**
- 6. Other Members of Norfolk Police and Crime Commissioner’s office**

Regarding either of the following subjects (ie. containing either subject in the slugline, subject matter or body of the email, text etc) :

**Private Eye
Child M**

The term “correspondence” in this context refers to emails, texts, What’s App and all other electronic messaging systems.

I am requesting correspondence and communication sent/received between the dates of 5.12.19. and 10.4.20.”

Request response:

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at section 1(1)(b) is to disclose the information that has been confirmed as being held. Where exemptions are relied upon, section 17 of the FOIA requires that we provide the applicant with a notice which: a) states that fact, b) specifies the exemption(s) in question and c) states (if that

would not otherwise be apparent) why the exemption applies. The Office of the Police and Crime Commissioner for Norfolk (OPCCN) can neither confirm nor deny that it holds any information relevant to your request, as the duty in section 1(1)(a) of the FOIA does not apply by virtue of the following exemption(s): -

- Section 40(5) Personal Information
- Section 31(3) Law Enforcement

Section 40(5)

With regard to section 40, to confirm whether or not any information is held would breach the Principles contained within Article 5(1) of the General Data Protection Regulation (GDPR) and Part 2 of the Data Protection Act 2018.

Personal data is defined under the Data Protection Act as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life.

Any disclosure which identifies an individual by releasing their personal data, even third-party personal data, is exempted, unless there is a strong public interest in its release.

Principle A of Article 5(1) states that information must be processed lawfully, fairly and in a transparent manner. In this case, to even confirm whether any information is or isn't held, individuals would have a reasonable expectation that information would not be processed if it resulted in their identification.

FOIA disclosures are published, making them available to the world at large and this means they will remain in the public domain indefinitely. Therefore, the provision of any information, if it exists, would exceed the original requirement for the processing of information and would not be lawful or fair to an individual.

In view of the above, under the terms of the Freedom of Information Act, and by virtue of the exemption at section 40(5), which relates to personal information, the OPCCN will neither confirm nor deny whether any information, relevant to your request, is or isn't held.

Section 31(3)

Section 31 can be claimed by any public authority, not just those with law enforcement functions.

Section 31 can be used by a public authority that has no law enforcement function to protect the work of one that does.

Section 31(3) is a prejudice-based exemption and is therefore subject to the public interest test when considering if confirmation or denial of holding information would likely cause harm.

The OPCCN will neither confirm nor deny whether any information is held, as to do so, would in turn identify whether the Norfolk Constabulary has undertaken an investigation relating to the subject matter of the FOI request.

Factors favouring the confirmation or denial as to whether information is held

Confirming whether or not information is or isn't held, in relation to this request, would promote openness and transparency which are fundamental principles of the Freedom of Information Act.

Factors against the confirmation or denial as to whether information is held

Confirming or denying whether any other information is held, would have the effect of identifying whether the Norfolk Constabulary has undertaken any investigations, relevant to your request.

Balance

Information released under the FOIA is a release to the world and not just to the person submitting the request. Therefore, in order to protect any investigations that the Constabulary may or may not have undertaken in relation to this request, the balance lies in neither confirming nor denying whether any relevant information is or isn't held.

Yours sincerely

L. Smith

Leah Smith
Complaints and Compliance Officer and FOI Decision Maker
Office of the Police and Crime Commissioner for Norfolk

Internal Review

If you think we have not supplied information in accordance with Section 1 (the General Right of Access) of the Freedom of Information Act 2000, or you are dissatisfied with the way in which your request has been handled, then you should write, in the first instance, to:

Mark Stokes
Chief Executive
Office of the Police and Crime Commissioner for Norfolk
Jubilee House
Falconers Chase
Wymondham
Norfolk
NR18 0WW

Telephone: 01953 424455

Email: opccn@norfolk.pnn.police.uk

If you are dissatisfied in any way with our response or the way we have handled your request, you can contact us by phone, email or in writing. We may, in the first instance, try and resolve your complaint informally. However, at any stage you can request or we may decide to treat your complaint formally under our internal review process.

An internal review is conducted by the Chief Executive who will review the request and response, taking account of your complaint(s), and will respond in writing as soon as possible. The Information Commissioner's Office recommends that a response should be made in 20 working days. If we are unable to respond in this timeframe we will inform you and provide a date by which you should expect to receive our response.

If, after the internal review, you remain dissatisfied then you can complain to the Information Commissioner's Office, the government regulator for the Freedom of Information Act. Details of how to contact the Information Commissioner's Office can be found at www.ico.gov.uk