

## **FREEDOM OF INFORMATION REQUEST, REF 233**

**Request: Please disclose the full Operation Lamp investigation report and the seven volumes of evidence associated with it.**

I can confirm that the Office of the Police and Crime Commissioner holds the Operation Lamp investigation report and associated evidence. The information has been withheld from disclosure because we believe exemptions apply. Section 17 of the Freedom of Information Act requires us to state which exemptions apply and the reasons why we believe they apply.

We consider that exemptions apply as follows:-

Section 31(1) Law Enforcement. This is because the information requested contains information relevant to other, subsequent investigations and reviews.

Section 40(2)(b) Personal Information. This is because the information requested contains personal information within the remit of the Data Protection Act 1998.

### **S31(1) LAW ENFORCEMENT**

This exemption states:

- (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice:
  - a. The prevention or detection of crime
  - b. The apprehension or prosecution of offenders
  - c. The administration of justice

and is subject to tests of prejudice and public interest.

#### **Test of Prejudice**

##### **Step 1 – identifying the applicable interest**

The applicable interest in this case is law enforcement, specifically the detection of crime, apprehension or prosecution of offenders and the administration of justice (S31 (1)(a)(b)(c)). This is because information contained in the report and evidence arising from Operation Lamp (which found evidence of a potential miscarriage of justice) is relevant to other, subsequent investigations and reviews.

##### **Step 2 – identifying the nature of the prejudice**

Law enforcement would be prejudiced by disclosure of information relating to Operation Lamp. This is on the basis that the disclosure would frustrate the progress of further investigations and reviews by revealing sensitive, evidential information which is relevant to such investigations and reviews and which would then hinder the proper administration of justice.

##### **Step 3 – the likelihood of prejudice**

It is considered that prejudice would occur on the basis that further investigations and reviews are ongoing and in view of the significant media interest in this case.

## **Public Interest Test**

Arguments in favour of disclosure:

1. Transparency and public accountability for an investigation (Operation Lamp) which took a substantial amount of time and was conducted at public expense.
2. Transparency and public accountability for a matter involving a potential miscarriage of justice.

Arguments against disclosure:

1. Prejudice to subsequent investigations and reviews.
2. Adverse impact on the administration of justice in terms of detection of crime and apprehension of offenders and also in relation to redress for a potential miscarriage of justice.

Balancing:

The arguments against disclosure have been found to weigh more heavily than those in favour of disclosure on the basis that prejudicing subsequent investigations and reviews will be detrimental to law enforcement in the case and will also be likely to adversely impact on remedies available in a case of a potential miscarriage of justice.

## **S40(2)(b) PERSONAL INFORMATION**

This exemption states that information is exempt information if its disclosure would contravene any of the data protection principles. The data protection principle relevant to this request is principle 1; that data shall be processed fairly and lawfully and shall not be processed unless at least one of the conditions of schedule 2 is met and, in the case of sensitive personal data, at least one of the conditions of schedule 3 is also met.

Disclosure of the information held would breach the Data Protection Act because the disclosure would not be fair and lawful. Schedule 2 conditions cannot be met and consent has not been given to disclosure. Furthermore, disclosure is likely to prejudice the rights and freedoms or legitimate interests of the data subjects by leading to intrusion into the individuals' private and family lives causing harm and distress and by prejudicing the administration of justice.

This exemption is absolute and does not require a public interest test.