



Section 17 Notice under the Freedom of Information Act 2000

WITHHOLDING INFORMATION

Section 30(1)(a)(i) – Investigations and proceedings conducted by public authorities

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of—

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained—

(i) whether a person should be charged with an offence.

(b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct.

This is a qualified exemption which means that the decision to disclose the requested material is subject to the public interest test.

The public interest factors taken into account in this case are explained below:

Public interest factors for disclosure

- To increase public understanding of the CPS decision making and prosecuting process.
- Transparency may increase public confidence in the CPS.

Public interest factors against disclosure

- There is a strong public interest in safeguarding the prosecution process. Maintaining the confidentiality of communications between the Police and the CPS, as well as other public bodies is an essential part of this process. It is important for officials to be able to freely justify and maintain their thought process when making decisions on criminal cases, without fear of the routes leading to those decisions later being disclosed into the public domain.

- There is a particularly strong public interest in not releasing information which forms part of an investigation when it has been decided not to charge; to release would be extremely unfair to the individual/s involved.

On balance, I consider the public interest favours maintaining the exemption.

Section 40(2) – Personal Data Relating To Third Parties

Some of the information you have requested contains sensitive personal data. The sensitive personal data consists of personal data relating to the commission, or alleged commission, of an offence.

We believe releasing the requested information into the public domain would cause damage and distress to the individuals in this case; all individuals involved in criminal prosecutions have a clear and strong expectation that their personal data will be held in confidence and not disclosed to the public under the FOI Act. This is especially true of sensitive personal data as it comprises information that individuals will regard as the most private.

Section 42(1) – Legal Professional Privilege (LPP)

The CPS view is that section 42(1) applies to some material on the basis of advice privilege and includes CPS case reviews. Section 42(1) is a qualified exemption that exempts from disclosure information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Whilst we recognise that there is a public interest in transparency, we consider that the public interest in not disclosing this information is greater.

It is vital for the effective conduct of the prosecution process that confidential communications between the CPS and third parties can take place. The prosecution process would be severely prejudiced if such communications were hindered by the fear of subsequent disclosure.

On balance, the CPS considers the public interest favours maintaining the exemption.