



FOI Ref: 8329

## Section 17 Notice under the Freedom of Information Act 2000

### WITHHOLDING INFORMATION

#### **Section 21 states Information accessible to applicant by other means.**

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1)—
  - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
  - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Section 21 is an absolute exemption which means there is no requirement to carry out a public interest test if the requested information is exempt.

#### **Section 22(1) states that information intended for future publication is exempt information if:**

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
- (b) the information was already held with a view to such publication at the time when the request for information was made, and
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date of publication

Section 22 is a qualified exemption which means that the decision to disclose the requested material is subject to a public interest test.

The CPS acknowledges that there is a public interest in demonstrating the transparency of the prosecution process and the performance of the organisation.

Some of the data you have requested will be published on the Crown Prosecution Service (CPS) website in May this year.

The timetable for publication allows for the review and validation of the figures to be included in the report and to release this information ahead of schedule would compromise the accuracy of the data.

On balance, I do not consider that it would be in the public interest to disclose the information requested ahead of schedule.

**Section 30(1)(c)** – Information held for the purposes of criminal proceedings which the authority has power to conduct in relation to the details of the nature of information in respect of which the twelve Undertakings within the scope of FOI request reference 8329.

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.
- Section 30(1)(c) is applicable as the Undertakings contain information that can cause prejudice/harm to proceedings. Disclosing information and details relating to Undertakings would contravene the public interest by failing to safeguard the prosecution process. We believe that releasing the requested information into the public domain would not only cause harm to criminal proceedings relating to the

particular case but would also fail to maintain the confidentiality of communications between the Police and the CPS.

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

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

As an Undertaking includes personal data (i.e. name and address) of a witness as well as details of the police officer, it is also withheld under Section 40(2). Personal data can only be released if to do so would not contravene any of the data protection principles as outlined in Data Protection Act 2018 and set out by Article 5 of the General Data Protection Regulation (GDPR).

*Personal data shall be processed lawfully, fairly and in a transparent manner*

We believe releasing the requested information into the public domain would be unfair to the individuals concerned; these individuals 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.