

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 October 2021

Public Authority: National Police Chiefs' Council

Address: 1st Floor
10 Victoria Street
London
SW1H 0NN

Decision (including any steps ordered)

1. The complainant requested details about a counter terrorism meeting held in June 2020. The National Police Chiefs' Council (the 'NPCC') provided some of the requested information with redactions under section 24 (national security), section 31 (law enforcement), section 38 (health and safety) and section 40 (personal information) of FOIA. It also initially withheld a short handwritten note made at the Counter Terrorism Advisory Network ('CTAN') meeting in its entirety under the above exemptions.
2. During the course of the Commissioner's investigation, the NPCC revised its position in relation to part of the request and disclosed the handwritten note in full to the complainant. It said that it considered a video recording of the meeting to be in scope but withheld it under the above exemptions. The NPCC also subsequently disclosed some of the names and specific organisational details of those who had attended/were invited to/were members of the CTAN meeting but withheld the remainder under the above exemptions.
3. The Commissioner's decision is that the NPCC was entitled to withhold the video recording of the meeting by virtue of section 40(2) of FOIA. She also finds that the NPCC has properly relied on section 40(2) to withhold the remaining names and specific organisation/group details and that the redactions within the disclosed draft minutes can also be withheld by virtue of section 40(2). As the Commissioner has found that section 40 can be relied on for the remaining withheld information, she has not found it necessary to consider the other exemptions relied on by the NPCC.

4. The Commissioner does not require the NPCC to take any steps as a result of this notice.

Background

5. The NPCC told the Commissioner that CTAN¹ is a national stakeholder engagement forum, which was formed by Counter Terrorism Policing in 2017. It is independently chaired, and its membership consists of survivors of terrorism, academics and researchers, a variety of faith leaders and members who reach others through community organisations and groups – all of which are independent of policing. It supports the UK counter terrorism strategy (CONTEST²) and the PREVENT³ work stream directed towards reducing the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism.
6. According to the Counter Terrorism Policing website in reference to CTAN⁴:

"Throughout 2020 we [Counter Terrorism Policing] have been growing and embedding this network into our regional Counter Terrorism Units, so we can listen to feedback from communities across the length and breadth of the country. It enables members, in an advisory capacity, to provide their perspective to help local decision-makers respond to issues which directly impact their communities. Regional perspectives, considered collectively, are also used to help inform areas of our work that require a national or consistent approach across the UK.

Whilst Counter Terrorism Policing is not obliged to act on the feedback of the network, and members are not accountable for decisions taken as a result of their advice, the CTAN supports members in fulfilling the important role of 'critical friend' by inviting scrutiny and seeking advice. Consultation events and the

¹ <https://www.counterterrorism.police.uk/ctan/>

² <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest-2018>

³ <https://www.gov.uk/government/publications/prevent-duty-guidance/revised-prevent-duty-guidance-for-england-and-wales>

⁴ Counter Terrorism Advisory Network (CTAN) | Counter Terrorism Policing

contributions of members help us to better understand the potential impact of our policing activities and policies, and where necessary, to make changes to our approach.

It is this collective effort, underpinned by a solid partnership between communities and policing, that will help us learn, evolve, and refine our practices – helping us to improve our protection of the public against the terror threat.”

7. As disclosed to the complainant (via the provision of the redacted draft minutes in response to part 3 of his request), an online CTAN meeting took place on Thursday 18 June 2020 between 11:00 and 13:00 via Microsoft Teams. The focus of the meeting was 'terminology' and it explored the use of the term 'Islamist-related' in the context of counter terrorism. The meeting intended to facilitate a broader understanding of the issues that surround the application of the term, and establish whether further work is required to consider alternative language. This meeting was recorded by video and 61 people attended.
8. The NPCC has informed the Commissioner that:

"CTAN members have made clear that they attended the meeting in their private capacity, rather than representing different groups or organisations, and believed that their involvement would remain confidential."
9. A member of Counter Terrorism Police (who is part of the NPCC) organised the CTAN meeting and gathered the names of the participants.
10. At various intervals during the course of the Commissioner's investigation, a number of further disclosures were made by the NPCC to the complainant in relation to his request. Further details are set out in the 'Scope' section of this notice.

Request and response

11. On 21 July 2020, the complainant wrote to the NPCC and requested information in the following terms:

"I am writing about the meeting reported by The Times on 20 July (<https://www.thetimes.co.uk/article/police-may-drop-term-islamist-when-describing-terror-attacks-7pjsf8pn7>) and discussed on Twitter by Chief Superintendent Nik Adams (for example <https://twitter.com/NatCoordPrevent/status/1285194357012942849>).

Please provide me with the following information:

- 1. A full list of attendees and the organisations they represent. If you cannot provide personal names please still include the organisations and a description of the attendees (such as those given here⁵).*
 - 2. A list of invited guests and their respective organisations including those who did not participate. Again, if you cannot provide personal names please still include the organisations and a description of those invited.*
 - 3. Copies of notes, minutes or audio or video recordings that you hold for the meeting.*
 - 4. The name and company of the chair or moderator, or event organiser, used for the meeting, if any such work was carried out by anybody not employed by the police.*
 - 5. A full list of the members, and the organisations they represent, who are part of the advisory network mentioned here by Chief Superintendent Nik Adams⁶: Again, if you cannot provide personal names please still include the organisations and a description of those in the network..."*
12. The NPCC responded, late, on 14 September 2020. It provided a redacted list of attendees of, and invitees to, the CTAN meeting, showing the type of organisations they represent which it said "*addressed parts 1, 2 and 5 of [the] request*". Whilst specific organisational details were not disclosed, the list identified which of the following categories the 61 attendees and wider CTAN members fell under, specifically: Victim/Survivor, Community Organisation, Researchers, Faith Community, Community Safety Role, Young Person, Police Officer, Staff or Government. It also showed those individuals who had confirmed their attendance. The redacted information within the list (names and specific organisation details) was withheld on the basis of sections 24 (national security), 31 (law enforcement), 38 (health and safety) and 40 (personal information) of FOIA.

⁵ <https://twitter.com/NatCoordPrevent/status/1285232013469978624?s=20>).

⁶ <https://twitter.com/NatCoordPrevent/status/1285231649245089793>.

13. For part 3 of the request, the NPCC provided the draft minutes with redactions (again exempted under the above listed exemptions), confirming that, at the time of the request, the minutes had yet to be formally approved.
14. For part 4, the NPCC confirmed the details of the event organiser who was Vice-Chair of the CTAN meeting but withheld details of the Chair of the meeting.
15. With regard to the redacted and withheld information, the NPCC said:

"The names of non-police personnel, as well [sic] part of the draft minutes and notes and recordings of the meeting are exempt by virtue of S[section] 38 Health & Safety, S40 Personal Information, S24 National Security and S31 Law Enforcement."

16. The NPCC confirmed that the views of some of the meeting attendees, and all the speakers had been sought, and also advised that the public interest tests where applicable (ie all the above exemptions bar section 40), favoured withholding this information. Additionally, in support of its reliance on the exemptions, the NPCC provided examples of negative reactions it had identified towards the Chief Superintendent Nik Adams on Twitter.
17. The complainant requested an internal review on 22 September 2020, raising a number of concerns which included:
 - Disagreeing with the NPCC's argument that abusive behaviour on Twitter is "*sustainable*" given that Twitter accounts can be made private and critics blocked or muted.
 - Disagreeing with the conclusion relating to the balance of the public interest.
 - Submitting arguments as to why the public interest favours disclosure.
 - Querying whether attendees were promised anonymity in writing in advance of the CTAN meeting.

18. The NPCC provided its internal review outcome on 26 October 2020 in which it maintained its original position, but provided further arguments about its reliance on section 40 of FOIA. With regard to the anonymity question raised by the complainant, the NPCC said:

"The NPCC has sought views from some of the attendees and all of the speakers of the meeting."

The responses confirmed that individuals attended and spoke in a private capacity rather than representing any organisation or institution they are attached to and that whilst they were not given an undertaking of anonymity, there was an expectation of anonymity."

19. The NPCC has advised that all CTAN members at the time of the request were invited to the CTAN meeting. This means that parts 2 and 5 of the request set out below are requesting the same information.

Scope of the case

Complaint to the Commissioner

20. The complainant contacted the Commissioner on 29 October 2020 to complain about the way his request for information had been handled. After the Commissioner sought clarification of his grounds of complaint, he submitted the following, which the Commissioner asked the NPCC to consider as part of its investigation response:

"...I would like to clarify that my complaint relates to the answers, or non-answers, to the entirety of my request. In particular, I want to understand the organisations invited to and participating in the event. Throughout this process the NPCC has been deliberately slow, evasive and secretive, as my correspondence with them demonstrates very clearly".

21. The complainant reiterated the points he had raised at internal review and asked that the Commissioner inform her investigation with reference to them.

The NPCC's partly revised position and further disclosure

22. During the course of the Commissioner's investigation, on 25 June 2021, the NPCC revised its position in relation to part 3 of the request; it told her:

"When responding to the request in relation to part 3, the NPCC interpreted that the applicant, in using 'or' rather than 'and' within the request, did not seek notes, minutes, audio and video recordings and so only provided the (redacted) minutes of the meeting. On reflection, it is accepted that the intent of the applicant may have been to seek all records of the meeting.

Therefore, in respect of part 3, in addition to the minutes, the applicant has now (25/06/2021) been provided with notes of the meeting held by the NPCC (all NPCC staff in attendance were

asked to provide any notes they held) and I can confirm that a video recording of the meeting in also held. In respect of the disclosure of the video recording, the NPCC assess that the significant amount of redaction required (under sections 31, 24, 38 and 40) to remove attendees personal data (images and voices) is not practicable and would make partial disclosure of the video recording meaningless.

Please also note that within the original response section 40(1) was mistakenly quoted rather than section 40(2) which is the correct subsection upon which the NPCC seek to rely."

23. As a result of its revised reading of this part of the request, the NPCC disclosed to the complainant in full (on 25 June 2021) the short handwritten CTAN note made at the meeting. It advised the Commissioner that this note was the only one made of the meeting (other than the minutes). Given that the handwritten note has been disclosed in full and that the complainant has not challenged the NPCC's position, the Commissioner has not considered this aspect of the request any further.

Notifying the complainant about the NPCC's revised view of the video recording

24. Towards the later stage of her investigation, the Commissioner noted that the NPCC had not advised the complainant about its' amended position with regard to the video recording being in scope of part 3. She asked the NPCC to update the complainant accordingly, which it did on 12 August 2021. It advised him as follows:

"In respect of the disclosure of the video recording, the NPCC assess that the significant amount of redaction required to remove attendees' personal data (images and voices) is not practicable and would make partial disclosure of the video recording meaningless. Accordingly, the video recording is withheld from disclosure under the law enforcement (S31), health and safety (S38), national security (S24) and personal information (S40) exemptions as previously explained to you within our original response and the internal review letter."

25. The complainant did not submit any specific comments in relation to the NPCC's revised position.

Complainant confirms he would like the names of those involved with the CTAN meeting

26. On 6 July 2021, based on the complainant's wording of his request with regards to the provision or otherwise of "personal names", the

Commissioner asked whether he wished her to consider any further potential disclosure of names as part of her investigation. That same day, the complainant confirmed that he did.

27. Additionally on 6 July 2021, as part of her investigation, the Commissioner asked the NPCC to review the list of CTAN meeting attendees and invitees/members to determine whether any of their details were already in the public domain. Her initial view is that if the details were already publicly available specifically linked to the CTAN, there was no basis for the NPCC to withhold them from the complainant.
28. It is important to reiterate here that that all those who were members of CTAN at the time of the request were invited to the meeting, which means that parts 2 and 5 of the request are seeking the same information.
29. As a result, the NPCC embarked upon an exercise to ascertain whether any of the CTAN meeting attendees and invitees/members details were in the public domain. It also decided to seek consent to disclose their details from all police staff and officers who had attended the CTAN meeting, as well as all CTAN members who had spoken at the meeting. The Commissioner notes the NPCC's explanation that completion of the 'consent exercise' was delayed by some of these individuals being on annual leave.

Further disclosure of senior police officers' names and details

30. Part way through this review, on 5 August 2021, the NPCC made a further partial disclosure of the names of four senior police officers who had attended the CTAN meeting, together with details of the organisations they represented.
31. The complainant subsequently expressed dissatisfaction with the extent of this disclosure; the Commissioner replied on 9 August 2021 to inform him that the NPCC had not yet completed its review but had agreed at this stage to disclose the details of those individuals whom it now deemed suitable for release.
32. Subsequently, the NPCC expressed concerns about the release of further names, making it clear that those attending the meeting had done so in the belief that they were attending in a private capacity and not as representatives of their organisations or various groups (see the 'Background' section of this notice). They had believed that their involvement with the CTAN meeting would remain confidential. Additionally, the NPCC advised the Commissioner that one of its Assistant Chief Constables ('ACC') had expressed concern at any non-senior police officer details being released even if consent had been given, because of the potential risks to those individuals which they

might not have fully appreciated at the point of consenting. The Commissioner is mindful that 'consent' is a complex area - once given it can be difficult to retract. The NPCC provided the Commissioner with a copy of the ACC's email of 17 June 2021, earmarked for CTAN police officers and staff, which sets out advice to limit public exposure about working in Counter Terrorism Policing and of the increasing risk of terrorist groups to target those working in this arena and their wider families.

33. Further, the NPCC submitted the following points with regard to non-high ranking employees:

- *They are not senior officers in public facing roles, they do not have responsibility for explaining policies or actions of the police to the outside world and they do not have strategic responsibility for making decisions on how public money is spent.*
- *The requestor's grounds of complaint and public interest arguments in disclosure are not focussed on low ranking police employees, but rather towards non-police CTAN members.*
- *Any disclosure of involvement in policing and indeed counter terrorism activity places them and their families at greater risk of harm (as previously outlined by ACC [name redacted, copy of email provided to Commissioner]).*
- *None of the individuals concerned has placed their involvement with CTAN into the public domain.*

34. The NPCC had said it was mainly reliant on section 40 of FOIA in regard to the withheld information appertaining to those attending and invited to the CTAN meeting, although it also relied on sections 24, 31 and 38.

35. Against this background, the Commissioner wished to secure the disclosure of as much information as possible without breaching any personal data regulations. She noted that the complainant's request was worded such that he wanted the organisational details even if the names could not be provided, although she was mindful that he had stated (on 6 July 2021) that he would also like to secure the names.

36. On 31 August 2021, the Commissioner therefore suggested that the NPCC consider providing any further organisational details minus the names.

Further disclosure of some organisation/group and voluntary provision of region details where known

37. On 23 September 2021, the NPCC released an updated list to the complainant. This list included the following columns: Forename,

Surname, Email, Primary Affiliation, Secondary Affiliation and Region and included both attendees of the meeting and those invited/members of CTAN. All the names and email details were withheld under section 40(2). (The Commissioner has disregarded the 'Email' information as this is outside the scope of the complainant's request).

38. The 'Primary Affiliation' column relates to the earlier organisational and group 'areas' that the individuals fall under which was disclosed in full. The 'Secondary Affiliation' shows the specific organisation/group where known; some of this information was withheld under section 40(2). Although the complainant had not requested any regional details, some of this information was held, so the Commissioner asked the NPCC to consider disclosing this in addition given that it informed the complainant of where certain individuals are based. As a result, regional details were provided where known. The Commissioner has not considered the 'Regions' aspect any further, given that all the information held has been disclosed to the complainant and because it was out with the scope of his request and voluntarily released.
39. On 24 September 2021, the complainant contacted the Commissioner to express his dissatisfaction with the extent of this latest disclosure.
40. The Commissioner, therefore, has considered whether the NPCC was entitled to withhold the remaining requested information on the basis of sections 24, 31, 38 and 40 of FOIA.

Reasons for decision

Remaining withheld information in scope of request

41. The Commissioner has reviewed all of the withheld information in scope of the request. Given the further disclosures made at various points during her investigation, the Commissioner thinks it would be helpful to summarise here the remaining information in scope of the request which have been withheld on the basis of sections 24, 31, 38 and 40 of FOIA:
 - The majority of names and some of the specific organisational details for the remaining CTAN meeting attendees and invitees/members of the CTAN (parts 1, 2 and 5 of the request).
 - Although the majority of the draft minutes of the meeting (part 3 of the request) have been disclosed to the complainant, one paragraph (under the CTAN Academic section), together with the name of the author of the minutes and contributors' names have been withheld.

- Having partly revised its position in relation to part 3 of the request during the Commissioner's investigation, the video recording of the meeting was deemed to be in scope, a position the Commissioner agrees with. The video has been withheld in its entirety.
- The details of the individual who chaired the meeting (part 4 of the request).

42. In its submissions to the Commissioner, the NPCC advised:

"Section 40 is the primary exemption which the NPCC seek in respect of the redactions to the minutes and the entirety of the video recording, however the NPCC also rely on sections 31, 24 and 38."

43. The Commissioner will, therefore, first consider the NPCC's reliance on section 40 of FOIA.

44. This means she will consider whether any further information should be disclosed with respect to the withheld names and specific organisational details for the CTAN attendees and invitees/members of CTAN, including the Chair, the redactions within the draft minutes and the video recording itself.

Section 40 – personal information

45. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.

46. In this case the relevant condition is contained in section 40(3A)(a)⁷. This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the General Data Protection Regulation ('GDPR').

47. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of FOIA cannot apply.

⁷ As amended by Schedule 19 Paragraph 58(3) DPA.

48. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, she must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

49. Section 3(2) of the DPA defines personal data as:

"any information relating to an identified or identifiable living individual".

50. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
51. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
52. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
53. Clearly, provision of the remaining withheld names of the CTAN meeting attendees, those who were invited/were members of CTAN, the Chair and the author of the minutes would identify those individuals. In addition, revealing details of their specific organisations could also constitute an 'identifier' where the size or speciality of that organisation would enable identification of an individual. The Commissioner understands that in some cases, only one individual may be involved in counter terrorism within certain organisations.
54. The NPCC has provided the Commissioner with a copy of the video recording of the CTAN meeting for her consideration. The meeting was held using Microsoft Teams with some attendees choosing to have the 'video' option enabled such that they are visible on screen, and others having it disabled, with a mixture of their initials, names or a photo image appearing on screen.
55. Video footage showing individuals' images and/or names/initials on screen, and audio recordings of individuals' voices, also enables individuals to be identified.
56. The redactions from the draft minutes are all those of organisations and individual names which are also 'identifiers', with the exception of one paragraph. The NPCC has explained that the withheld paragraph within the minutes was redacted because the work undertaken is very specialist and specific, such that it considers identification of the

individual would be possible. Further, disclosure of the remaining names within the redacted minutes would identify those individuals.

57. The Commissioner considers that all the above information, falls within the definition of 'personal data' in section 3(2) of the DPA.
58. The fact that information constitutes the personal data of an identifiable living individual does not automatically exclude it from disclosure under FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.
59. The most relevant DP principle in this case is principle (a).

Would disclosure contravene principle (a)?

60. Article 5(1)(a) of the GDPR states that:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".

61. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
62. In order to be lawful, one of the lawful bases listed in Article 6(1) of the GDPR must apply to the processing. It must also be generally lawful.

Lawful processing: Article 6(1)(f) of the GDPR

63. The Commissioner considers that the lawful basis most applicable is basis 6(1)(f) which states:

"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child"⁸.

⁸ Article 6(1) goes on to state that:-

"Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks".

However, section 40(8) FOIA (as amended by Schedule 19 Paragraph 58(8) DPA) provides that:-

64. In considering the application of Article 6(1)(f) of the GDPR in the context of a request for information under FOIA, it is necessary to consider the following three-part test:-
- i) **Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
 - ii) **Necessity test:** Whether disclosure of the information is necessary to meet the legitimate interest in question;
 - iii) **Balancing test:** Whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject.
65. The Commissioner considers that the test of 'necessity' under stage (ii) must be met before the balancing test under stage (iii) is applied.

Legitimate interests

66. In considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. These interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case-specific interests. However, if the requester is pursuing a purely private concern unrelated to any broader public interest, unrestricted disclosure to the general public is unlikely to be proportionate. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.
67. Although referenced as 'public interest' arguments by the complainant, the Commissioner considers that the points raised do reflect legitimate interests for disclosure of the withheld information:

"In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (dis-applying the legitimate interests gateway in relation to public authorities) were omitted".

"There is a clear public interest in understanding the backgrounds and affiliations of those attending the meeting we are discussing. Policing is of course a matter of public interest and decisions made by the police on how they work and the language they use should be a matter of total transparency. This will allow the public - not to mention Parliament - to judge whether or not the police are being unduly influenced by vocal pressure groups that are unrepresentative not only of society but the communities for whom they claim to speak. There have been too many cases - as police leaders have admitted - of the police believing that secrecy is more important than transparency only to discover the reverse is true once serious failures come to light."

68. The NPCC made the following legitimate interest submissions:

'Withheld Names. The NPCC accept that there is legitimate interest in seeking disclosure of the withheld names in terms of transparency and accountability. It would allow the requestor and the public to understand the backgrounds and affiliations of those at the CTAN meeting and the potential that any of them may be "unduly influenced by vocal pressure groups".'

'Withheld Organisations/Groups/background. The NPCC accept that there is legitimate interest in seeking disclosure of the withheld information in terms of transparency and accountability, as it would provide additional background information to allow the requestor and members of the public to assess the context of views provided. However, CTAN members have made clear that they attended the meeting in their private capacity, rather than representing different groups or organisations, and believed that their involvement would remain confidential.'

'Withheld Video Audio. The NPCC accept that there is legitimate interest in seeking disclosure of the withheld names in terms of transparency and accountability.'

69. The Commissioner accepts that there are legitimate interests in the remaining withheld names (including the Chair), specific organisations/groups, and the video recording being disclosed. She also considers that there are legitimate interests in the redacted paragraph within the disclosed draft minutes being released. She will, therefore, consider whether disclosure is 'necessary' for each aspect.

Is disclosure necessary?

70. 'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity

and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.

71. In the circumstances of this case, the Commissioner notes that the NPCC has attempted to meet its legitimate interest obligations to openness and transparency under FOIA by the disclosure of some of the requested information.
72. The complainant has not submitted any reason(s) why the provision of the above information is 'necessary'.

Redactions within the draft minutes

73. In relation to the draft minutes, the NPCC stated that it believes:

"...it is not necessary to provide the this [sic] CTAN member associated information as they [the legitimate interests] are reasonably met by the disclosure of (1) the redacted minutes which allow what was said at the meeting to be assessed and challenged on its merits and (2) each individual's category of membership (ie Victim/Survivor Community Org Researchers Faith Community, Community Safety role, Young Person, Police Officer / Staff or Government)".

74. Since this statement was made, there has been a further disclosure to the complainant containing some of the specific organisational/group details (together with the voluntary provision of the regional information held) for CTAN members.
75. The Commissioner has reviewed the redactions in the minutes and notes that they correlate only to the identities of a small number of the CTAN attendees and their respective organisations. One short paragraph has been redacted in its entirety; the NPCC has explained that this is because the content focusses on work which is "very specialist and specific" which could allow for identification of that individual. Additionally, the individual concerned has expressed his concern about the impact of disclosure on his welfare, work and roles.

Name and organisation details for the Chair

76. The NPCC has explained to the Commissioner in confidence why it does not agree that the name of the Chair of the CTAN meeting should be released. The Commissioner has taken this submission into account in reaching her decision.

Commissioner's view on redactions within the minutes/identity of Chair

77. The Commissioner accepts that the NPCC has provided the majority of the minutes which reflect the key points arising from the CTAN meeting. She has also taken into account that the attendees, including the Chair and author, were there in a private capacity and had an expectation of anonymity. Furthermore, she has had regard to the additional confidential submission from the NPCC in relation to withholding details of the Chair. She notes that the NPCC has disclosed the details of the Vice-Chair to the complainant. The Commissioner does not consider it 'necessary' for the remaining redactions to be disclosed in order to meet the legitimate interests in this case.

Video recording

78. In relation to the video/audio recording, the NPCC submitted that disclosure:

"is not necessary to satisfy those legitimate interests as that has been proportionately achieved through the disclosure of the redacted minutes of the meeting".

79. In order for the video recording to be released, work would need to be undertaken by the NPCC to conceal the identities of any participants whose details have not already been disclosed. Not only would this require visual editing to obscure the faces of those individuals, but also the names and/or initials of those who attended the meeting but had their cameras turned off, such that their attendance was represented instead by names or initials. Further work would need to be carried out to redact the voices/contributions of those individuals whose identities are not already known. The NPCC has argued that "*disclosure of individual's images and voice would be excessive and disproportionate to any identified legitimate interest which are heavily outweighed by the rights of all the data subjects*".

Commissioner's view on the video recording

80. Given the provision of the redacted minutes, which serve as a record of the key points discussed and which have been disclosed almost entirely, the Commissioner considers that it is not 'necessary' for the actual video recording of the CTAN meeting to be disclosed. Given her conclusion, she has not formally assessed to what extent the video and accompanying audio would require redacting.

Withheld names and specific organisation/group details for CTAN attendees and invitees/members

81. The NPCC's reasons for wishing to withhold the remaining names and specific organisational details have been set out earlier in this notice. It has reconsidered its position at various intervals during the Commissioner's investigation and provided additional detail to the complainant which was previously withheld.
82. The NPCC reiterated its earlier argument in relation to the withheld names, namely that the identified legitimate interests are reasonably met by the disclosure of the redacted minutes which allow what was said at the meeting to be assessed and challenged on its merits. In relation to the withheld organisation/group details, the NPCC also repeated its earlier statement:

"The NPCC believe that to satisfy these legitimate interests it is not necessary to provide the this [sic] CTAN member associated information as they [the legitimate interests] are reasonably met by the disclosure of (1) the redacted minutes which allow what was said at the meeting to be assessed and challenged on its merits and (2) each individual's category of membership (ie Victim/Survivor Community Org Researchers Faith Community, Community Safety role, Young Person, Police Officer / Staff or Government)."

83. Again, since the above submission, a further disclosure has been made showing some of the specific organisational/group detail held, with only a handful exempted under section 40.
84. Furthermore, parts 1, 2 and 5 of the complainant's request reflect that he is aware that personal names may not be able to be disclosed, and that he would be willing to accept disclosure of the organisational details.

Commissioner's view on withheld names and specific organisation/group details

85. The Commissioner is mindful that the CTAN meeting was attended by individuals in a private capacity with an expectation of anonymity. She recognises that the NPCC has made a number of disclosures in the course of her investigation – these have included a small number of names and associated organisational details and, where disclosure would not risk the identification of the individuals, some specific organisation/group information was provided, minus the associated names. The NPCC also provided the regional information it held, which it was not obliged to do given that this was outside the scope of the request.

86. The Commissioner accepts that the complainant did have a legitimate interest in requesting the information as a whole, as it is a matter of interest to the public how the NPCC conducts itself and allows for an assessment of the backgrounds and affiliations of those attending the CTAN meeting. However, in her view, the disclosure of the redacted minutes of the meeting, together with some of the names, all the general organisational/group sector information and some specific organisation/group details plus the voluntary provision of the regional information where held, contributes towards meeting the legitimate interests in this case.
87. She has also taken into account the wording of the complainant's request which reflects the possibility that all personal names may not be released. As such, the Commissioner finds that the disclosure of the withheld names and specific organisation/group details is not necessary to meet the legitimate interests.

Conclusion

88. Therefore the Commissioner does not accept that disclosure of the redacted information was 'necessary' in order to satisfy the legitimate interest, as disclosure under the FOIA would not have been the least intrusive means of achieving the legitimate aim in question.
89. As the Commissioner has decided in this case that disclosure is not necessary to meet the legitimate interests she has identified, she has not gone on to conduct a balancing test. As disclosure is not necessary, there is no lawful basis for processing the redacted information and it is unlawful and, therefore, it does not meet the requirements of principle (a), which states that:
- "Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject."*
90. It follows that the Commissioner has decided that the NPCC is entitled to withhold the redacted information under section 40(2), by way of section 40(3A)(a).
91. The Commissioner has therefore decided that the NPCC was entitled to withhold the remaining information requested at parts 1, 2, 3, 4 and 5 of the request (meeting attendees and invitees/members, video recording, redactions within the draft minutes and the identity of the Chair of the CTAN meeting) under section 40(2), by way of section 40(3A)(a).
92. As the Commissioner has found that section 40(2) is properly engaged to the remaining withheld information in this case, she has not found it

necessary to consider the NPCC's reliance on the other exemptions cited.

Other matters

93. In this case, the NPCC failed to respond to the request within the statutory 20 working days' timeframe. The Commissioner will use intelligence gathered from individual cases to inform her insight and compliance function. This will align with the goal in her draft "Openness by Design strategy"⁹ to improve standards of accountability, openness and transparency in a digital age. The Commissioner aims to increase the impact of FOIA enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in her "Regulatory Action Policy"¹⁰.

⁹ <https://ico.org.uk/media/about-the-ico/consultations/2614120/foi-strategy-document.pdf>

¹⁰ <https://ico.org.uk/media/about-the-ico/documents/2259467/regulatory-action-policy.pdf>

Right of appeal

94. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

95. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
96. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Laura Tomkinson
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SK9 5AF