

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 March 2023

**Public Authority:** Chief Constable of Greater Manchester Police  
**Address:** GMP Headquarters  
Central Park  
Northampton Road  
Manchester  
M40 5BP

#### **Decision (including any steps ordered)**

---

1. The complainant requested from Greater Manchester Police (GMP) information relating to a police investigation case. GMP withheld the requested information and cited section 30(1)(a) (investigations and proceedings), section 38(1) (Health and Safety) and section 40(2) (personal information) of FOIA.
2. The Commissioner's decision is that GMP was entitled to rely on section 30(1)(a) of FOIA to refuse the request. Therefore, the Commissioner does not require GMP to take any steps as a result of this decision.

#### **Request and response**

---

3. On 26 June 2022, the complainant wrote to GMP and requested information in the following terms:  
  
"I am interested to know further facts about the [name redacted] stabbing case. I would like to know if the 3 knives that were found were tested for fingerprints and DNA, and if so what were the results of those tests. If they were not tested, I would like to understand why not."

4. On 5 August 2022 GMP responded and confirmed it held the information requested. GMP refused to provide the information and cited sections 30(1), 38(1) and 40(2) of FOIA.
5. Following the complainant's request for an internal review, on 28 September 2022 GMP provided its internal review response. GMP maintained its position to withhold the requested information under the exemptions cited.
6. The following analysis focuses on whether GMP was entitled to rely on the exemptions to refuse the request.

## **Reasons for decision**

---

### **Section 30 – Investigations and proceedings**

7. Section 30(1)(a) of FOIA states:

"Information held by a public authority is exempt information if it has at any time been held by the authority for the purpose 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, or

(ii) whether a person charged with an offence is guilty of it,"

8. The Commissioner considers that the phrase 'at any time' means that information can be exempt under section 30(1)(a) of FOIA if it relates to a specific ongoing, closed or abandoned investigation.
9. Consideration of section 30(1)(a) is a two-stage process. Firstly, the exemption must be shown to be engaged. Secondly, as section 30 is a qualified exemption, it is subject to the public interest test.

### **Is the exemption engaged?**

10. The first step is to determine whether the withheld information falls within the class described in section 30(1)(a) of FOIA.

11. The Commissioner has published guidance<sup>1</sup> on section 30 which states that section 30(1)(a) can only be claimed by public authorities that have a duty to investigate whether someone should be charged with an offence.
12. The Commissioner's guidance describes the circumstances in which the subsections of section 30(1) might apply. With respect to section 30(1)(a), the guidance says:

"The exemption applies to both investigations leading up to the decision whether to charge someone and investigations that take place after someone has been charged. Any investigation must be, or have been, conducted with a view to ascertaining whether a person should be charged with an offence, or if they have been charged, whether they are guilty of it. It is not necessary that the investigation leads to someone being charged with, or being convicted of an offence..."
13. Within its refusal notice, GMP informed the complainant that as section 30(1) of FOIA is a class based qualified exemption, there is a requirement to carry out a public interest test. GMP then set out its arguments in favour of disclosure and in maintaining the exemption.
14. GMP, in its response to the Commissioner, provided a copy of the advice correspondence which it received from the National Police Chiefs' Council (NPCC) and was implemented in the response to the complainant.
15. The Commissioner acknowledges the information requested relates to an investigation which at the time of the request, the police investigation into the case in question, was live. This request clearly relates to a specific criminal investigation, and the Commissioner is therefore satisfied the exemption is engaged.

### **Public interest test**

16. The Commissioner must determine whether the public interest lies in disclosure or in maintaining the exemption.

---

<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1205/investigations-and-proceedings-foi-section-30.pdf>

### **Public interest arguments in favour of disclosing the information**

17. GMP explained to the complainant, disclosing the exempt information into the public domain, would show GMP's accountability, and satisfy the public that the investigations into the death of the victim, were being conducted correctly. GMP said it would also show its use of public funds in continuing to investigate this crime.
18. The complainant believes there is a strong public interest in knowing further facts about the case in question. Specifically, in knowing if fingerprints or DNA of [name redacted] were found on any of the knives that were recovered. The complainant also argued that with this knowledge, it would have "a huge impact on the justness of the decision to acquit [name redacted] on murder and manslaughter charges..."
19. It is clear to the Commissioner, the complainant has a personal interest in the requested information, and that she considers she has a right to know about further facts of the police investigation.

### **Public interest arguments in favour of maintaining the exemption**

20. GMP stated to the complainant, that "the disclosure sets a precedent as to how GMP responds over such questions which may inhibit the ability to prevent and detect crime in the future, as individuals may well be less inclined to co-operate with the police if they were aware that the information they provide, or is held by GMP would likely be disclosed to the world in circumstances sitting outside the criminal justice process."
21. The complainant disputed GMP's arguments for maintaining the exemption, she does not accept that asking the police whether they carried out the necessary investigations in the course of their duties will in any way lead to individuals being "less inclined to co-operate with the police". The complainant is of the view that this argument does not have any relevance in this case.
22. When considering the public interest in maintaining the exemption, it is necessary to be clear what it is designed to protect. In broad terms, section 30 exemption exists to ensure the effective investigation and prosecution of offences and the protection of confidential sources. It recognises the need to prevent disclosures which would prejudice either a particular investigation or set of proceedings, or the investigatory and prosecution processes generally, including any prejudice to future investigations and proceedings.

## **Balance of the public interest arguments**

23. In reaching a conclusion on the balance of the public interest, the Commissioner has taken into account the nature of the requested information and the views of both the complainant and GMP.
24. The Commissioner accepts it is important for the public to have confidence in GMP's investigative capabilities. Accordingly, there is a general public interest in disclosure of requested information in order to promote accountability and transparency and to maintain confidence and trust. He also accepts disclosure of the information would provide reassurance that GMP had conducted a thorough investigation into the case in question.
25. The Commissioner understands the complainant's personal interest in gaining access to the requested information. However, it is important to reiterate that a disclosure under FOIA is a disclosure to the world at large and not just a private transaction between the public authority and the applicant.
26. The Commissioner recognises there is a very strong public interest in protecting the investigative capabilities of public authorities. The Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption – in this case, the public interest in GMP being able to effectively conduct its function of carrying out criminal investigations.
27. The Commissioner accepts that organisations with functions to investigate and prosecute criminal offences, rely on the voluntary co-operation of victims and witnesses, as well as those under investigation. Whilst those bodies usually have enforcement powers to require information to be provided, these are most effective when used sparingly and it is important not to obstruct the voluntary flow of information.
28. In this case, at the time of the request, the police investigation into the [name redacted] case was live.
29. Having given due consideration to the arguments put forward by both parties, the Commissioner considers the public interest in disclosure is outweighed by the public interest in ensuring the investigation and prosecution of offences is not undermined. Also that the ability of GMP to investigate crime effectively is not jeopardised.
30. The Commissioner is therefore satisfied GMP was entitled to rely on section 30(1)(a) of FOIA to refuse the request, and that the public interest in maintaining the exemption outweighs the public interest in disclosure.

31. As the Commissioner has concluded this exemption is engaged in respect of the withheld information in its entirety, he has not considered GMP's application of the other exemptions - section 38(1) and section 40(2) of FOIA to the request.

## Right of appeal

---

32. 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: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk).

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

33. 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.
34. 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 .....**

**Joanna Marshall**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**