

15th February 2021

Freedom of Information Request - Reference No: 20202334

REQUEST

Hi I would like to make a request under FOI. I would like to see previous versions of the summary report relating to Operation Cygnus. The final summary document was published here - <https://www.theguardian.com/world/2020/may/07/revealed-the-secret-report-that-gave-ministers-warning-of-care-home-coronavirus-crisis> I would also like to see supplementary documents that relate to this summary and/or were circulated in the run up to the report being finalised in 2017

RESPONSE

Section 17 of the Freedom of Information Act 2000 requires South Yorkshire Police, when refusing to provide such information (because the information is exempt), to provide you the applicant with a notice which:

- a. states that fact,
- b. specifies the exemption in question and
- c. states (if that would not otherwise be apparent) why the exemption applies.

S40 (2) Personal Information

S31 (1) (a) (b) Law Enforcement

S 36 (2)(b)(ii) Disclosure Prejudicing the Effective Conduct Of Public Affairs

S40 (2) Personal Information – this is an absolute exemption and does not require a public interest test.

However, for clarity, I will explain my rationale for engaging this exemption. Section 40(2) provides that information is exempt if it is the personal data of someone other than the applicant and disclosure would breach any of the data protection principles. The term 'personal data' means data that relates to a living individual. The documents that you have requested contain information in relation to individuals. Such a release would infringe the first Data Protection Principle, in that it would be 'unfair'. Considering a Freedom of Information request is a disclosure 'to the world' and not just the person requesting the information, it would be unfair to disclose personal names of individuals contained in the reports and redactions have been made accordingly.

Section 31 (1) (a) (b) Law Enforcement states that information is exempt information if its disclosure under the Act would, or would likely to prejudice:

- a) The prevention or detection of crime;
- b) The apprehension or prosecution of offenders.

Section 31, this exemption is a qualified and prejudice based exemption and therefore the legislators accept that there may be harm if released. The authority has to consider and describe the harm that would occur if a full disclosure of information were released.

Section 36 of the Act exempts information if, in the reasonable option of a 'qualified person', disclosure would (or would be likely to) inhibit the free and frank provision of advice or exchange of views or otherwise prejudice the effective conduct of public affairs
Evidence of harm as required by the Act is supported by information from a qualified person, the Chief Constable of SYP.

Overhall HARM

It is important to stress that when a disclosure is made under the Freedom of Information Act, it is a disclosure to the world and not to a single individual. In view of this, we may publish information released under the Freedom of Information Act on our website in order that any member of the public who may wish to view the information can have access to it.

Formulating local strategy relies upon the full and frank exchange of opinions, issues and potential difficulties, by the exchange of views, between a number of our regional organisations – NHS, PHE, Ambulance Service, Fire and Rescue, Councils, and Military to consider in this case, public health concerns, which has an impact on our force.

If debrief recommendations were to be routinely released into the public domain, this could potentially inhibit the free and frank exchange of views to reach these recommendations, and therefore reduce opportunities for learning and improvements, causing potential harm to future multiagency emergency responses. This would weaken the local decision making process to the public detriment if officials felt pressurised not to express such views in future.

Formulating local multi-agency strategy relies upon the full and frank exchange of opinions, issues and potential difficulties, disclosures would inhibit discussions and planning.

Disclosure of information that details the operational effectiveness of the South Yorkshire Police may compromise the force. Those with criminal intent could use the information to circumnavigate SYP's procedures which may lead to more crimes being committed which would impact on police resources and place individuals at risk.

Public Interest Test

S31 Considerations favouring disclosure

- A full release of information would show that SYP is proactive in its operational areas
- Disclosure would demonstrate SYPs commitment to transparency and openness

S31 Considerations favouring non-disclosure

- The information could be used by those with criminal intent to determine our forces capability at a certain time, place or event which would provide them with an advantage.
- It may reveal sensitive or tactical details that relate to policing activity.

S36 Considerations favouring disclosure

- The public would have a better understanding of the way in which the police service conducts itself and how decisions are made with a larger number of multi-agency organisations to reach such sensitive decisions
- Transparency and accountability of public authorities is in the public interest, especially where they are under scrutiny.

S36 Considerations favouring non-disclosure

- It would not be in the public interest to inhibit senior decision makers in the way they discuss process and procedure of anticipation of an event of significant public interest.
- It would not be in the public interest to limit a public authority in the way they communicate information, deliberate or exchange ideas, through fear of anything written down or recorded in any way being disclosed through a Freedom of Information request.
- Individuals would be not be as forthcoming with their ideas and suggestions if they thought that these could be disclosed into the public domain.
- Our LRF partners believe that the public interest is better served by the release of the national aggregated report to which our local documents contributed.

BALANCE TEST

South Yorkshire Police believe it is important to be transparent and accountable to the public. If the discussions were disclosed it would have a detrimental effect upon the process of how multi-agency decisions are made.

This would impact upon how South Yorkshire Police business is conducted, as individuals from other Organisations would feel restrained and not freely provide ideas to share in discussions.

I am of the opinion that protecting local multi-agency planning and operational strategies is a more compelling argument. If the documents were fully disclosed it would have a detrimental effect upon the process of how decisions are made.

South Yorkshire Police cannot risk compromising the ability of Officers to effectively carry out law enforcement and protect the public. It would not be in the public interest to disclose information that would have a detrimental impact upon local level decision making processes.

Having weighed up both parts of the public interest test, I have decided on balance that it is not in the public interest to provide all the information pertinent to your request.

Please see the attached documents that do not trigger the above exemptions.