

22nd August 2018

## **Freedom of Information Request – Reference No:20181418**

### **REQUEST**

My request relates to information included in a South Yorkshire Police report produced by the Advisory Panel on Policing Protests entitled Policing Sheffield's Trees Protests, dated 12th June, 2018 [www.southyorkshire-pcc.gov.uk/Document-Library/Advisory-Panel-on-Policing-Protests/Policing-Sheffield-Trees-Protests.pdf](http://www.southyorkshire-pcc.gov.uk/Document-Library/Advisory-Panel-on-Policing-Protests/Policing-Sheffield-Trees-Protests.pdf)

I'm interested in item 6.2. as quoted below:

"6.2

On 21 February 2018, SCC announced that work had to be abandoned at Nether Edge Sheffield, S7. Its statement said that protestors appeared to be using dangerous tactics such as pulling and cutting safety ropes, studding trees with nails and glass and using oil which could cause chain saws to slip."

HSE wrote to me on 27/7/18 in reply to a related FOI request: "Any incidents involving the interference of safety equipment by members of the public referred to in 6.2 of the report, are matters for the Police and not HSE."

In relation to alleged incident 6.2 please could you describe in detail the following:

1. How it came to the attention of SYP;
2. What evidence was gathered;
3. What action was taken;
4. Correspondence with Amey and SCC on this matter;.
5. What stage are you currently with your enquiries.

### **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.

#### **Section 40(2) Personal Information**

##### **Section 31(1) Law Enforcement**

##### **Section 38 (1)(a)(b) Health and Safety**

##### **Section 42(1) – Legal Professional Privilege**

#### **Section 40(2) Personal Information**

This is an absolute exemption and therefore a Public Interest Test is not relevant. 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 who can be identified. Information disclosed under the Freedom of Information Act is disclosed into the public domain, effectively to the world, not just to one individual. This would be breaching the right to privacy afforded to persons under the Data Protection Act 1998

**Section 31(1) Law Enforcement**  
**Section 38(1) - Health and Safety**  
**Section 42(1) – Legal Professional Privilege**

### **OVERALL 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.

Any release of such information that may be involved in ongoing operations such as Op Quito (or Testate) could compromise the effectiveness of the operation, further lines of enquiry and the integrity of any future investigations.

Disclosing details could also be viewed by those involved, living or working in the community as a breach in confidentiality. This could jeopardise the safety of the general public and SYP staff as well work done within communities to increase the public's confidence in reporting and giving assistance to the Force. In turn it could lead to more crimes being committed which would impact on police resources and place individuals at risk – including those reporting incidents, victims, witnesses etc.

With Legal Privilege there is a very real and significant public interest in protecting the longstanding principle and maintaining confidential communication between parties.

### **PUBLIC INTEREST TEST**

#### **Section 31 – Favouring non-disclosure**

- Impact on police resources: Police resources and the Force's ability to operate effectively and efficiently, would be directly affected as this information can be manipulated by those with criminal intent allowing them to operate in those areas. This may compromise police tactics and capabilities.

#### **Section 31 – Favouring disclosure**

- Accountability and Use of Public Funds: There is a legitimate public interest in knowing that the force fulfils its policing functions effectively and efficiently in dealing with particular type of offences and incidents.
- Public Awareness and Debate: Provision of this data would reassure the public that South Yorkshire Police is actively policing certain types of Operations and crimes and that safety of communities is paramount.

#### **Section 38 – Favouring non-disclosure**

- Disclosure would provide people intent on criminal means the knowledge to be able to find alternative ways of committing further offences. This may compromise public safety.
- Further investigation could be compromised

### **Section 38 – Favouring disclosure**

- The public would be reassured that safety in the community is important to the police.
- Disclosure would lead to a better awareness for the community in relation to this topic, and more people may be prepared to come forward with further information.

### **Section 42 - Factors favouring non-disclosure**

- There is a substantial public interest in the section 42 exemption, which protects the principle of legal privilege. The principle safeguards the confidentiality and openness of all legal or legally related communications and exchanges between parties involved with incidents and the organisation.

### **Section 42 - Factors favouring disclosure**

- There is a legitimate and significant public interest in the current Tree Felling Programme in Sheffield and SYP involvement. This has been subject to public debate and interest. Disclosure at this time would further inform the public debate and comment in 'real time', as well maintaining openness from SYP

### **Balancing Test**

I have carefully considered your request for information. The key test when considering the public interest is to establish whether in all the circumstances of the request, the public interest in disclosing the information is not outweighed by that in maintaining the exemption

The Police Service is charged with enforcing the law, the prevention and detection of crime and protecting the public. Whilst there is a public interest in the transparency of policing functions and operations and also providing assurance that the police service is appropriately and effectively resourced in order to enforce the law, there is also a strong public interest in the safeguarding the public in the communities they live and work.

The Tree felling program is a matter of great public interest and, there has been much media attention, incidents and criticisms directed towards SYP and their involvement along with a need for transparency of decision making which could weigh strongly in favour of disclosing.

I am of the opinion that the strongest reason for withholding information is that due to the relatively recent time parameters and ongoing enquiries may still be continuing. As well as a very real and significant public interest in protecting the longstanding principle of legal privilege. These may be compromised by releasing material pertinent to your request.

As we have already stated, a Freedom of Information request is not just a release to the person making the request, but also to the world. It cannot be clear at present what effect disclosures made by a Freedom of Information response may have upon such enquiries.

With this in mind, I am prepared to disclose as much detail as possible without triggering the above exemptions.

I approached our Superintendent for Neighbourhoods and Partnerships for assistance with your request.

He has supplied me with the following information from which the following details have been supplied to assist in your research of this subject:

1. *There was a crime reported ....., which was recorded as a Section 4 Public Order Act. This occurred before the incidents on Meersbrook Park Road in January 2018. ....This was investigated and dealt with.. no prosecution took place.*
2. *As above the matter was investigated and no action taken.*
3. *As above*
4. *The matter was raised by the contractors in my initial risk assessment meeting*
5. *We have no live investigations regarding this matter.*