



NORFOLK
CONSTABULARY
Our Priority is You

February 2020

Freedom of Information Request Reference N°: FOI 000562/20

I write in connection with your request for information received by Norfolk Constabulary on the 6th February 2020 in which you sought access to the following information:

26/1/20 – Morrisons, Albion Way

Please can you confirm if there was a traffic incident on this date at around 14:46 to 15:30 in the afternoon.

Response to your Request

The response provided below is correct as of 7th February 2020.

Norfolk Constabulary has considered your request and our response is below.

Please see attached redacted incident report which is relevant to your request.

The report has been redacted to ensure that no individuals can be identified and the exemption at section 40 engaged.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at section 1(1)(b) is to disclose information that has been confirmed as being held.

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

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

The information is exempt from disclosure by virtue of the following exemption:-

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

Section 40

Section 40 is an absolute, class-based exemption and applies to third party personal data. This would not be released under the FOIA unless there is a strong public interest. This is because any release would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third-party personal data, is exempted unless there is a strong

public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life.

Principle (a) of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. Lawfulness refers to occasions where disclosure would not breach statute or common law obligations.

In this case we consider the Human Rights Act 1998. Individuals who have been in contact with the Constabulary would not expect details to be processed in response to an FOI request, which may inadvertently identify their involvement with an incident. The provision of any additional details would significantly increase the likelihood of individuals being identified, as the request relates to a specific date, time and location. The Constabulary therefore considers it would be in breach of their Human Rights Act by disclosing these details which may identify those involved and therefore disclosure would not be lawful.

With regards to the fairness aspect, the processing of information should be in a manner that individuals would reasonably expect, not in a way that could result in unjustified adverse effects on them. In this case, the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification. The Constabulary has a duty to ensure data is processed in accordance with Data Protection Legislation. We feel in this occasion, it would not be fair to process this data outside of usual policing processes.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original Policing requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel the principle would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments.

This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.