



Protecting Communities,
Fighting Crime



Marie Romano

Head of Compliance

**Office of the Police and Crime
Commissioner for Derbyshire**

Butterley Hall

Ripley

Derbyshire

DE5 3RS

Tel: 0300 122 6000

pccoffice@derbyshire.pnn.uk

www.derbyshire-pcc.gov.uk

21/05/2019

FOI Request – FOI 14/2019

Thank you for your request for information which was received on 27/03/2019. Your request has been considered under the Freedom of Information Act 2000 (FOIA).

The first part of your request has already been answered and a response was sent to you on 25/04/2019.

I apologise for the delay in responding to the second part of your request but additional time was needed for us to consider the public interest arguments regarding the release of the 6-monthly report from Enthusiasm and I wrote to you explaining why we were applying the time extension, with the exemptions we were considering on the 18/04/2019.

Attached is the 6-monthly report for your viewing however, please note that under the Freedom of Information Act 2000 we have applied Section 40 (2) Personal Information and Section 38 Health and Safety exemptions to some of the data contained within the report. For ease of identification any redactions will be clearly marked by a black box covering the redacted words/numbers:

Section 40 (2) Personal Information

Section 40 (2) Personal Information has been applied to some of the information in order to preserve the safety of vulnerable individuals (children and young adults) whom are engaged in the Enthusiasm programme. The report is made up of information regarding specific case studies of individuals (page 5 and 6 of the report), special category data (page 3 of the report) and other personal identifiable data, whom would be likely to be identified from the information if disclosed. The OPCC has considered the redacted information and has concluded that if the OPCC were to disclose that information it could be possible to identify the individuals concerned.

We are not obliged, under section 40(2) of the Act, to provide information that is the personal information of another person if releasing the information would contravene any of the provisions in the Data Protection Act 2018 (DPA). In this instance we believe that the release of this information would contravene the first data protection principle and therefore section 40 (2) is engaged. The terms of this exemption in the Freedom of Information Act mean that we do not have to consider whether or not it would be in the public interest for you to have the information. For more information regarding Section 40 (2) please see the link below.

<https://ico.org.uk/media/for-organisations/documents/2614720/personalinformation-section-40-and-regulation-13-version-21.pdf>

Section 38 (1) a and b Health and Safety

Section 38 of the FOIA states that information is exempt if its disclosure under the legislation would or would be likely to:

- a) endanger the physical or mental health of an individual or
- b) endanger the safety of an individual

Section 38 (1) a and b has been applied to some of the information in order to preserve the safety of vulnerable individuals (children and young adults) whom are engaged in the Enthusiasm programme. The report is made up of information regarding specific location data and case studies which is likely to prejudice those individuals if that information was to be disclosed to the world at large. This is because it would identify exactly where vulnerable individuals (children and young adults) are frequenting and that information and those individuals could then be taken advantage of which would then impact on their mental and physical health and their individual safety.

Section 38 is a qualified exemption and is subject to a public interest test which means the information requested can only be withheld if the public interest in doing so outweighs the public interest in disclosure. For more information regarding Section 38 (1) b please see the link below.

<https://ico.org.uk/media/for-organisations/documents/1624339/health-and-safety-section-38-foia.pdf>

Please see below the considerations of our public interest test.

Arguments in favour of release:

- **Aids with understanding of how public funds have been spent as well as general transparency.**

Arguments in favour of non-disclosure:

- **Revealing location details where vulnerable children/young adults frequent would be likely to put those individuals at risk and would be likely to endanger their mental and physical health by disclosing patterns of movements to the world at large, especially 'safe locations' that a third party could then very easily take advantage of and would provide intelligence which therefore allows those vulnerable children/young adults to be targeted. This then represents a real and significant risk to those children/young adults' personal safety, including their mental and physical health as well as fundamental safeguarding concerns.**
- **Disclosing the location details where vulnerable children/young adults frequent would be likely to undermine the whole Enthusiasm programme and could cause vulnerable children/young adults, who actually need the programmes support, to not attend or engage with the programme through lack of trust with the providers. This would be likely to then leave these children/young adults exposed and at risk of not being supported effectively, which would be likely to prejudice their mental and physical health as well as their general safety, by not getting the appropriate support they require.**
- **Revealing the location data and also individual case studies not only would be likely to prejudice the vulnerable children/young adults health and safety but also potentially that of their families too. Any adverse effect on those children/young adults would be likely to have a knock-on effect to the families involved and their wellbeing.**
- **The OPCC believes that the report with the redactions gives enough insight into the Enthusiasm programme to satisfy the public interest in how public funds are spent and performance management of grants is monitored, without revealing the redacted parts which would be likely to endanger the children/young adults mental and physical health as well as their general safety.**

The OPCC places significant weight on protecting individuals from risks to their mental safety and wellbeing. The OPCC believes that children/young adults need extra protection due to their safety being more easily endangered than that of others. The OPCC identifies that there is a logical connection between disclosure of the redacted information and the endangerment of children/young adults. The OPCC also considers that the likelihood of endangerment to those children/young adults, if the redacted information was release, is real, actual, significant and of substance and could actually be a danger to the children/young adults mental and physical health as well as their general safety.

Therefore, taking all of the above into account and on the balance of the information contained in the public interest test the OPCC has concluded that in all circumstances of the case the public interest in maintaining the exemptions outweighs the public interest in disclosure.

If you are not satisfied with our response to your request, under Section 17 of the FOIA of the FOIA you are entitled to ask for an internal review of our decision. Any internal review needs to be submitted within two months of the date of receipt of this response and state why you are unhappy with the response. You can submit an internal review in the following ways:

- emailing the OPCC Inbox – PCCOffice@Derbyshire.PNN.Police.UK or;
- writing to the OPCC at –
The Office of the Police and Crime Commissioner for Derbyshire
Butterley Hall
Ripley
Derbyshire
DE5 3RS

By phone – 0300 122 6000 (as a reasonable adjustment under the Equality Act 2010).

If you are not satisfied with the outcome of the internal review under Section 50 of the FOIA you can apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the internal review procedure provided by the OPCC. You can contact the ICO in the following ways:

- online at the ICO – <https://ico.org.uk/global/contact-us/> or;
- writing to the ICO at –
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9
5AF

Yours Sincerely

Marie Romano

Head of Compliance