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DATE 12/01/2022

Dear Requester,

FOI Request: FOI 46 2021

I write in connection with your request for information processed under the Freedom of Information Act 2000 (FOIA) and sent to the Police and Crime Commissioner for Derbyshire on date, 28/11/2021 regarding the 2021 Badger Cull detailed below:

Please provide all internal (within the constabulary) and external communications relating to the policing of the 2021 badger cull.

Please see in the attached email the information in relation to your request. I can confirm that we do hold some information relating to your request however, please note that under the Freedom of Information Act 2000 (FOIA), we have applied to some of the information the following exemptions:

- **Section 40 Personal Data and**
- **Section 36 Prejudice to the effective conduct of public affairs**

Therefore, this information has been redacted or removed completely from your response. For ease of identification any redactions will be clearly marked by **XXXX** covering the redacted words.

- The OPCC has assessed the information requested and has decided that Section 40 (2) FOIA - Personal Information applies to some of that information. Personal information for instance would refer to anything which could identify an individual like - (names, personnel numbers and direct contact numbers of staff members working for the Office of the Police and Crime Commissioner (OPCC) or the Derbyshire Constabulary below senior level).

Similarly, we have consulted with any third parties and redacted any personal data like names, direct email addresses and contact numbers where applicable. Any members of the public who have contacted the OPCC we have redacted their personal details - name and contact details also. Therefore, this personal information is exempt by virtue of section 40 (2) of the Freedom of Information Act 2000 (FOIA), as disclosure of this information to the public generally, in the OPCC's view, would infringe the Data Protection Act 2018 (DPA2018) and Article 6 of the UK General Data Protection Regulations (UK GDPR).

- Under Section 36 (s36) (Prejudice to the effective conduct of public affairs) of the Freedom of Information Act 2000 (FOIA). S36 requires a qualified person's opinion for the exemption to be engaged. The legally authorised qualified person for the OPCC is the Police and Crime Commissioner – Angelique Foster. Therefore, she has given her 'reasonable opinion' that disclosure of some of the information you've requested which includes - (emails containing advice and discussions, opinions, and views from colleagues) is exempt from being released. The reason for this is that to release this information would be likely to inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation and would prejudice the effective conduct of public affairs. As s36 is a qualified exemption for the OPCC, we have detailed our public interest test (PIT) considerations below.

N.B. In reaching her final decision the Commissioner reviewed the information placed before her as the legally authorised qualified person. The Commissioner was provided with a submission outlining the reasons for applying the exemption as well as the counter arguments in favour of disclosure. The Commissioner also has had access to the withheld information to read and digest and therefore, was sufficiently well informed to allow her to form a reasonable opinion on whether or not the information should be disclosed.

When applying s36 as detailed above the OPCC must carry out a public interest test (PIT) to ascertain whether the public interest in maintaining the exemption, outweighs the public interest in disclosing the information. Below are the PIT reasons that were considered and agreed upon for the information you have requested.

PIT Considerations Reasons for releasing the information:

- ***To promote the accountability and transparency of the OPCC and other partners in discussions relating to the badger cull 2021 and allow individuals to understand decisions made relating to this live topic.***

However, it is the view of the Commissioner that the public interest in maintaining the exemption outweighs the public interest in disclosing the information and therefore,

that's why some of the information you have requested has been withheld from the final response.

The reasons why we have decided to withhold this information under s36 FOIA is detailed below.

Reasons for withholding the information:

- ***There is a strong need for a “safe space” for the Commissioner/OPCC to formulate ideas, debate ideas and to give and receive advice on the current live issue of badger culling. The Commissioner/OPCC should be able to debate ideas with partners and to receive and give advice away from any public scrutiny and criticism.***
- ***Good decision making is crucial to the Commissioner and her decisions needs to be based on the best advice available after a full consideration of the options. Colleagues and third parties feel able to provide free and frank views and advice to the Commissioner, due to the fact these exchanges are not intended to go into the public domain. It would be likely to prejudice the frankness and candour of these discussions and advice currently and in future, if colleagues/partners knew that their honest opinions, advice and deliberations were going to be placed into the public domain. It also would be likely to impair the overall quality of decision making by the Commissioner/OPCC and partners and could make it more difficult for the OPCC and partners to work collaboratively and cohesively when delivering their core business objectives, which isn't in the public interest.***
- ***There is a strong need for the Commissioner/OPCC to discuss operational policing tactics without fear of these being made public, especially when it would be likely to have an adverse effect on Derbyshire Constabulary's ability to police events currently or in future, or to be able to offer an effective public service overall. There is a real risk that because the badger culling is currently a live and contentious issue, release of the Commissioner/OPCC's discussions and strategic thinking could have a disruptive effect for the Commissioner/OPCC/Constabulary, other partners and the wider public and, could cause unnecessary diversion/additional resources in responding to these events in future, which would cost the public purse more money, which isn't in the public interest***

If you are not satisfied with our response to your request, under Section 17 of the FOIA and Section 45 Code of Practice guidelines, 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's Office (ICO) for a decision. Generally, the ICO cannot make a determination on your internal review 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

A handwritten signature in black ink, appearing to read 'Marie Romano', with a stylized flourish at the end.

Marie Romano
On behalf of the Police and Crime Commissioner