

FREEDOM OF INFORMATION REQUEST REFERENCE NO 2013-027

Your request has now been considered under the Freedom of Information Act 2000 (the Act) and we provide our response below.

You asked:

This is a formal request under the Freedom of Information Act

Please may I have copies of all notes taken prior to, during, or following meetings, phone calls or any other form of contact between MARTYN UNDERHILL, Police and Crime Commissioner, and any officer of Dorset Police with reference to the ongoing hate crime against the (*Family name*) family of (*Family address*) between 01/12/12 and 24/10/13

Your request for information has been considered under the Freedom of Information Act 2000 (the Act) and our response is as follows:

Please find our formal refusal notice in relation to this request below.

The Office of the Police and Crime Commissioner (OPCC) neither confirms nor denies (NCND) that it holds any of the information requested. A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision in part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with Section 1(1), give the applicant a notice which – (a) states the fact, (b) specifies the exemption in question, and (c) states (if that would not otherwise be apparent) why the exemption applies.

The OPCC neither confirms nor denies (NCND) that it holds any information relating to your request by virtue of the following exemptions:

Section 30(3) Law Enforcement
Section 40(5) Personal Information

Section 30 is a class based qualified exemption, where the legislation anticipates the harm that can be caused by confirming or not that information is held, but requires consideration of the public interest.

Section 40 (5) of the Act exempts the OPCC from its duty to confirm whether or not requested personal information is held by us, where such a confirmation would breach any individual's rights under the Data Protection Act 1998.

When citing Section 40(5), there is a requirement for us to articulate the public interest considerations to ensure that neither confirming nor denying that any information exists is the appropriate response in this case.

Any such information, if held, would constitute personal information and would not be appropriate for disclosure. Disclosures under the Act are disclosures to the world and not just in confidence to the individual requestor. The OPCC routinely publishes disclosures made under the Freedom of Information Act on the PCC Dorset website. The OPCC cannot confirm to the world that we hold particular information on

particular individuals. This would breach the right to privacy provided by the Data Protection Act 1998 to everyone.

Similarly, the confirmation of whether or not information is held with regard to this request would confirm that the OPCC held knowledge of a particular matter. If we were to disclose this detail, we would risk undermining the trust and expectation of confidentiality vested in us by the public.

All information held by the OPCC is handled with the utmost security and understanding. Exempting information by virtue of a specific part of the Act could indirectly confirm other information is held. It is of great importance that there is no public disclosure of the possibility (however small) that the OPCC holds particular information. The maintenance of a NCND stance regarding any information, which may or may not be held by the OPCC, protects the notion of confidentiality in our dealings with the public.

This stance is critical in the maintenance of the confidence of the general public and all those with whom we deal. They need to be certain that their contact with the OPCC takes place in a clearly defined and secure confidential environment.

Public Interest test

Factors favouring confirmation or denial that information is held

Confirmation or denial of whether information is held by the OPCC would provide the public with an awareness of what information is actually held and would stop any incorrect speculation that may already exist as well as providing reassurance that all related matters are dealt with in a focused, thorough and appropriate way.

Factors against confirmation or denial that other information is held

If confirming or denying that other information is held, has the strong potential to identify an individual this would be a clear breach of the first principle of the Data Protection Act, which states that personal data shall be processed fairly and lawfully and that a public authority must handle an individual's personal data only in ways they would reasonably expect.

This in turn would compromise our ability to work with the public in confidence, rendering current and future policing activity less effective.

Balancing Test

If the OPCC were to reveal any information which has the potential to indicate that sensitive personal information is held, this would not be in the interest of the public. The OPCC will not confirm or deny if information is held, if to do so, would place any individuals or communities at risk, influence current police work, or impart detrimental precedence for future law enforcement activity.

Therefore because of the arguments outlined above the balancing test lies in favour of neither confirming nor denying that any information is held.

This notice therefore acts as a refusal notice for your request. This action cannot be taken as confirmation or denial that the OPCC holds the information you have asked for.