



Altogether Better Policing

Information Rights and Disclosure
Digital Data and Technology Command
Police Headquarters
Aykley Heads
Durham
County Durham
DH1 5TT

Web Site: www.durham.police.uk

E-mail: freedomofinformation@durham.police.uk

Phone: 0191 3752582



**Request to Durham Constabulary under the Freedom of Information Act
Received on 13/05/2022 Our Ref: FOI/480/22**

Date: 24/06/2022

Your request:

1. the force's definition as set out in any internal documentation of what the term "retrospective investigation" means
2. a copy of any paper / report / document produced to facilitate decision-making by the force that sets out the difference between the Dominic Cummings alleged breach of Covid rules and the Keir Starmer alleged breach in terms of whether an investigation should be mounted (ie excluding anything that relates to the actual investigation)
3. statistics on all crimes that the force has investigated proactively, ie before they occurred
4. copies of all correspondence from 10 Downing Street or the Home Office regarding whether or not there should be an investigation into the two alleged offences in 2 above

Response:

Although the information is held, there is no facility to easily access the information requested. To access and retrieve accurate data would require a member of staff to manually review 60,000 records per annum. A conservative estimate of the time needed to check each individual record is 5 minutes.

This is because in order to answer question 3 a member of staff would need to manually interrogate each crime report recorded to see if it was relevant to your request.

The cost of providing you with the information is above the amount to which we are legally required to respond. Accordingly, therefore, I will be unable to provide any information in relation to your request under Section 12 of the Freedom of Information Act 2000.

In accordance with Section 17(5) of the Freedom of Information Act 2000, this letter represents a Refusal Notice for this particular request.

Although excess cost removes Durham Constabulary's obligations under the Freedom of Information Act 2000, as a gesture of goodwill, I have supplied information below, relative to your request, retrieved or available before it was realised that the fees limit would be exceeded. I trust this is helpful, but it does not affect our legal right to rely on the fee regulations for the remainder of your request.

Question 1 – No information Held



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Questions 2 and 4 Please see below

Durham Constabulary can neither confirm nor deny that it holds any information relevant to your request as the duty in Section 1 (1) (a) of the Freedom of Information Act 2000 (FOIA) does not apply by virtue of the following exemptions under the Freedom of Information Act 2000:

Section 30 (3) Investigations

Section 31 (3) Law Enforcement

Section 30 (3) Investigations

Section 30 (3) is a class based exemption, this exemption requires me to perform a Public Interest Test and describe harm that could be caused if the constabulary was to either confirm or deny that the requested information is held:

Harm

The harm in confirming or denying that the requested information is held would be that it could affect / hinder an ongoing police investigation.

Please follow below link to access Durham Constabulary's (The Force's) press statement issued on the 6th May 2022 regarding the confirmation of the commencement of an investigation:

<https://www.durham.police.uk/News/News-Articles/2022/May/Durham-Constabulary-Press-Statement.aspx#:~:text=Durham%20Constabulary%20Press%20Statement%20Posted%20on%20Friday%206,gathering%20in%20Durham%20City%20on%20April%2030%202021>.

Public interest in favour of confirming or denying the requested information is held:

It is acknowledged there is a public interest in this investigation.

Investigations are funded with public money.

The public are entitled to know that Durham Constabulary is conducting investigations in an effective manner.



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Public interest in favour of neither confirming or denying that the requested information is held:

This investigation is currently ongoing, to disclose **any** information (or even confirm if it is or isn't held) could affect and possibly undermine that investigation.

The greater public interest is that police investigations should be allowed to continue unaffected and unhindered by any release of information (or to confirm or deny specific information is held)

Balancing Test

As this is currently an active / open investigation, the public interest balance has fallen in favour of not confirming or denying that any information is held in relation to your request.

An ongoing investigation must be allowed to continue unhindered.

S.31 (3) Law Enforcement

Section 31 (3) is a prejudice-based exemption, this exemption requires me to perform a Public Interest Test and describe harm that could be caused if the constabulary was to either confirm or deny that the requested information is held:

Harm

The harm in confirming or denying that the requested information is held would be that it could affect / hinder an ongoing police investigation.

Public interest in favour of confirming or denying the requested information is held:

It is acknowledged there is a public interest in this investigation.

Investigations are funded with public money.

The public are entitled to know that Durham Constabulary Is conducting investigations in an effective manner.

Public interest in favour of neither confirming or denying that the requested information is held:

This investigation is currently ongoing, to disclose **any** information (or even confirm if it is or isn't held) could affect and possibly undermine that investigation and subsequently reduce Durham Constabulary's Law enforcement capabilities.



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To confirm or deny any information is held in relation to your quest would in essence by disclosing evidence that may or may not be held in relation to a live investigation, this would undoubtedly affect the law enforcement capabilities of Durham Constabulary.

Balancing Test

As this is currently an active / open investigation, the public interest balance has fallen in favour of not confirming or denying that any information is held in relation to your request.

It is also in the Public Interest that Durham Constabulary maintains its Law Enforcement capabilities.

CONCLUSION

This Section 17 (1) FOI Refusal Notice does not confirm or deny that Durham Constabulary holds the information that you have requested (in relation to questions 2 and 4), and this decision is in no way an indication that the information requested is or is not held by the force.

Please note that Durham Constabulary's response to your request is unique and should not be used as a comparison with any other Force response you receive.

COMPLAINT RIGHTS

Your attention is drawn to the below link to our website, which details your right to complain:

[Freedom of Information Requests \(contensis.com\)](http://contensis.com)

If you have any further enquiries concerning this matter, please write or contact me on the above telephone number.

I hope this is of assistance to you.

Yours sincerely
Freedom of Information Decision Maker
Information Rights and Disclosure Unit