



CIVIL NUCLEAR CONSTABULARY

[REDACTED]

Email: [REDACTED]

Our Ref: 2015-059

The Executive Office

Civil Nuclear Constabulary
Building F6 Culham Science Centre
Abingdon
Oxon
OX14 3DB

Tel: 01235 466428

Website: <https://www.gov.uk/government/organisations/civil-nuclear-constabulary>

Dear [REDACTED]

I am writing in response to your request for information regarding the below received on 23 June 2015. Your request has been handled under Section 1(1) of the Freedom of Information Act 2000. In accordance with Section 1(1)(a) of the Act I hereby confirm that the CNC/CNPA does hold information of the type specified.

Exemptions applied

The exemptions that have been applied are:

Section 40(2) Personal Information

Section 24(1) National Security

Section 38(1)(b) Health and Safety

Section 42(1) Legal Professional Privilege

Section 36(2)(c) Disclosure Prejudicing the Effective Conduct of Public Affairs

As the information constitutes third party data, Section 40(2) provides that personal data about third parties is exempt information if one of the conditions set out in Section 40(3) is satisfied. Under the Freedom of Information Act, disclosure of this information would breach the fair processing principle contained in the Data Protection Act (DPA), where it would be unfair to the people to have their personal data released under these circumstances. If this information was released, the individual(s) would be identified from the information released. This exemption is absolute with no public interest test necessary.

By releasing the information, you could potentially calculate the number of Officers and Staff on shift at one time.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006 the UK Government has published the threat level based upon current intelligence and that threat is currently at "severe".

The release of this level of detail into the public domain is likely to assist potential terrorists, thus seriously threatening national security. Members of the criminal fraternity are also likely to

benefit from the disclosure as it will increase the publicly available knowledge of the capabilities of the Civil Nuclear Constabulary, potentially making it easier to commit offences. Disclosure of the information would also assist with the disruption and avoidance of any police response to an unlawful activity, whether that activity is terrorist related or not.

The disclosure would therefore be likely to make it easier to commit offences and would also inevitably endanger the safety of those persons working at the sites, members of surrounding communities and also police officers.

Under the Act, an applicant may not obtain disclosure of legal advice offered to a public authority by a solicitor in private practice or an in-house lawyer, subject to the application of the public interest test since this is a qualified exemption. Under S42(1), a public authority is exempt from the duty to communicate information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. It is likely that some of the information may comprise confidential communications provided to the Department by a solicitor or in-house lawyer which is protected by legal professional privilege.

This exemption is class-based. This means there is no requirement to demonstrate any prejudice that may occur to the professional legal adviser/client relationship if information is disclosed. It is inherently implied that the release of information that may appear trivial might undermine the relationship between the lawyer and the client.

Public Interest Test

Considerations favouring disclosure under Section 24

Disclosure of the information requested would enable the public to gauge the efficiency and effectiveness of the plans in place to prevent and detect potential terrorist activity. The public are entitled to know how the police service undertakes its duties to be reassured that forces are doing as much as possible to combat terrorism.

Factors favouring non-disclosure under Section 24

National security encompasses a wide spectrum and it is the Polices duty to protect the people within the UK. Public safety is of paramount importance to the policing purpose and must be taken into account in deciding whether to disclose this information.

In this current environment, where there is a possibility of increased threat of terrorist activity providing any information that could assist any group or persons who wish to cause harm to the people of the nation would undermine the safeguarding of national security.

Considerations favouring disclosure under Section 36

The intention of carrying out the analysis is to enable us as a Public Authority to consider management of our staff in the future. The CNC/CNPA need to have a "safe space" in order for these discussions to take place in regards to our workforce. Disclosure of Annex G & H would enable the public and the employees of the CNC/CNPA to be better informed of discussions that are taking place and enable them to make a more informed decision.

Considerations favouring non-disclosure under Section 36

The intention of carrying out the analysis is to enable us as a Public Authority to consider management of our staff in the future. The CNC/CNPA need to have a "safe space" in order for these discussions to take place in regards to our workforce. Disclosure of Annex G & H would take away this safe environment for discussions to take place. Whilst the litigation has been completed the analysis of our workforce and our relationships with the Staff Associations is still a live issue. We believe that there could also be an impact on the sponsoring Government Department.

Considerations favouring disclosure under Section 38

It could be important for the public to know how many officers are on shift at a particular site at one time. This could provide the public with the assurance that there was enough officers to provide sufficient protection for the sites that the CNC police.

Considerations favouring non-disclosure under Section 38

Public safety is of paramount importance to the police service and its partner agencies. In this case the disclosure of information may assist terrorists to further their aims by violent means, thus putting the safety of members of the public and police officers at risk. Whilst wishing to embrace the ethos of information disclosure, this cannot take precedence over public safety.

The disclosure of information designed to safeguard the public is also likely to lead to a loss of confidence in the Constabulary's ability to protect the well-being of the community.

Balance Test

Whilst I acknowledge that there is a legitimate public interest in disclosing the information requested, the Police Service will not divulge information if to do so will undermine the relationship between lawyer/client, prejudice national security or place the safety of any individual at risk.

Whilst there is a public interest in the transparency of policing operations and in this case providing assurance that the police service is appropriately and effectively engaging with the threat posed the risk of terrorism and other more common forms of criminality, there is a strong public interest in safeguarding the integrity of the police in this highly sensitive area.

In this instance, there is no compelling or specific justification for disclosure to outweigh the obvious interest in protecting communications between lawyer and the client, which the client supposes to be confidential.

The Civil Nuclear Constabulary is a specialist armed police service dedicated to the civil nuclear industry, with Operational Policing Units based at 11 civil nuclear sites in England, Scotland and Wales and over 1400 police officers and staff. The Constabulary headquarters is at Culham in Oxfordshire. The civil nuclear industry forms part of the UK's critical national infrastructure and the role of the Constabulary contribute to the overall framework of national security.

The purpose of the Constabulary is to protect licensed civil nuclear sites and to safeguard nuclear material in transit. The Constabulary works in partnership with the appropriate Home Office Police Force or Police Scotland at each site. Policing services required at each site are agreed with nuclear operators in accordance with the Nuclear Industries Security Regulations 2003 and ratified by the UK regulator, the Office for Nuclear Regulation (ONR). Armed policing services are required at most civil nuclear sites in the United Kingdom. The majority of officers in the Constabulary are Authorised Firearms Officers.

The Constabulary is recognised by the National Police Chiefs' Council (NPCC) and the Association of Chief Police Officers in Scotland (ACPOS). Through the National Coordinated Policing Protocol, the Constabulary has established memorandums of understanding with the local police forces at all 11 Operational Policing Units. Mutual support and assistance enable the Constabulary to maintain focus on its core role.

We take our responsibilities under the Freedom of Information Act seriously but, if you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. We will investigate the matter and endeavour to reply within 3 – 6 weeks. You should write in the first instance to:

Sarah Shevlin

Disclosures Officer
CNC
Culham Science Centre
Abingdon
Oxfordshire
OX14 3DB

E-mail: FOI@cnc.pnn.police.uk

If you are still dissatisfied following our internal review, you have the right, under section 50 of the Act, to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect you to have exhausted the complaints procedures provided by the CNPA.

The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

If you require any further assistance in connection with this request please contact us at our address below:

Sarah Shevlin
Disclosures Officer
CNC
Culham Science Centre
Abingdon
Oxfordshire
OX14 3DB

E-mail: FOI@cnc.pnn.police.uk

Yours sincerely

Sarah Shevlin
Disclosures Officer
Civil Nuclear Constabulary