

**Date:** 17/11/2023

**Our ref:** 01/FOI/23/011623/H

**FREEDOM OF INFORMATION REQUEST REFERENCE NO: 01/FOI/23/011623/H**

I write in connection with your request for information dated 07/11/2023, received by Greater Manchester Police (GMP) for the following information:

*During a recent BBC documentary, The Detectives: Taking Down an OCG, a GMP officer was implicated in having associations and involvement in the OCG being investigated, including taking home important CPS documents, including from the attempt murder trial, of which one of the OCG nominals was on trial for.*

*The officer had made notes about the defences possible to use in court for the accused and additionally had hundreds of phone calls with members of the OCG.*

*During the documentary, we see this officer arrested and interviewed, providing a No Comment interview. Failing to account for her actions.*

*At the end of the documentary it states that the investigation against the officer, both Criminal and internal, was dropped.*

*The information I would like is in relation to the above. Any information, documents and reasoning as to why the investigation was dropped, both criminal and for professional standards - appropriately redacted to protect the identities of those involved and any sensitive operational information, of course.*

*The evidence and circumstances shown within this documentary show that this officer, on the balance of probabilities, committed gross misconduct. The gravity of dropping this investigation has huge public interest as to the reasoning.*

*Given that some police officers have been losing their jobs in the UK for taking a jar of coffee from an abandoned Cannabis farm and adding it to the station tea-fund, the offences and actions of the severity stated above and undertaken by a sworn constable in a public office, needs to be clearly explained in the view of public confidence and the interest of anti-corruption.*

**Result of Searches**

Following receipt of your request searches were conducted within Greater Manchester Police (GMP) to locate the requested information and Greater Manchester Police can neither confirm nor deny

whether it holds the information that you requested as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 (the Act) does not apply by virtue of the following exemptions:

**Section 30(3) - Criminal Investigations**

**Section 31(3) - Law Enforcement**

**Reasons for the decision**

Your request concerns a criminal investigation and a misconduct investigation into an unnamed GMP Officer as mentioned during the BBC documentary, The Detectives – Taking Down An OCG. Your request asserts that information is held about investigations being concluded as a result. Whilst the existence of these investigations into the GMP Officer is not in dispute, and that the documentary was correct by saying that no charges or disciplinary proceedings were brought against the Officer, GMP has never formally commented on whether investigations have concluded on these matters.

Definitive responses about what information we hold relevant to this request would likely compromise our investigations, and hinder our ability to ascertain whether an offence has been committed, and whether someone could be charged with such an offence.

Therefore, in relation as to whether or not we hold any information about the cessation of those investigations, GMP can neither confirm nor deny.

This stance should not be taken as an indication as to whether or not the information exists. This stance is taken consistently in cases where formal confirmation has not taken place in order to protect both individuals' and policing interests now and in the future.

Section 17 of the Freedom of Information Act 2000 requires GMP, when refusing to provide such information (because the information is exempt) to provide you, the applicant, with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies. The information requested in relation to information about operational fixed/mobile safety cameras and their operational functions (other than measuring speed) have been exempt from disclosure by virtue of the following exemptions:

**Section 30** is a 'class-based' exemption and would apply to any 'class' of information that would, if held, have been held by the GMP for the purpose of an investigation that we have a duty to conduct. The harm in disclosing information relating to an investigation is inherent in the exemption. However, section 30 is subject to a public interest test.

**Section 31** is a "qualified" and "prejudice" based exemption, which requires explanation of the harm and a test of the public interest.

**Evidence of Harm**

Section 30 and Section 31 can be used in conjunction when applying the neither confirm nor deny stance in order to protect the status of investigations.

A Freedom of Information Act request is not a private transaction. Both the request itself and any information disclosed, are considered suitable for open publication. This is because, under the Act, any information disclosed is released into the wider public domain, effectively to the world, not just to an individual.

Whilst not questioning the motives of the applicant, confirmation or denial as to whether information is held in relation to this request would prejudice our law enforcement functions of preventing and detecting crime, apprehending and prosecuting offenders, and undermine investigations into allegations of misconduct. Issuing confirmation or denial responses as to whether these investigations have been concluded or not, would likely open the door to further repeated requests that seek to establish whether or not any criminal allegations and misconduct matters are still being pursued.

Accepting that the documentary confirms the existence of investigations, disclosing potentially sensitive information as to whether this specific police investigation is ongoing would be likely to undermine investigative processes and GMPs ability to deliver effective law enforcement.

**Public interest considerations favouring confirming or denying whether the information is held (Section 31)**

There is inherent public interest in knowing that the Police Service has correctly investigated all allegations of criminality and misconduct against the serving Officer, and that the outcome of the investigations are justified. The BBC documentary has already established certain facts about the investigation, therefore confirming or denying whether any information is held that explains why investigations were concluded as a result, would allow GMP to appear more open and transparent in regards to this high profile matter. The release of the requested information would enable the public to hold GMP accountable in its use of public funds in ensuring that it is robustly investigates this type of criminal activity.

**Public interest considerations favouring neither confirming nor denying whether the information is held (Section 31)**

The public interest is not what interests the public but what will be of greater good if released to the community as a whole. It is not in the public interest to disclose information that may compromise GMPs ability to accomplish its core functions of law enforcement.

To confirm or deny that GMP holds information as to any reasons and decisions that concluded investigations has the potential to damage GMPs ability to prevent and detect crime or apprehend or prosecute offenders in this matter. In addition, the duty to confirm or deny does not arise if, or to the extent that, compliance with s1(1)(a) would, or would likely to, prejudice any matters mentioned in subsection (1), namely s31(1)(g) by virtue of (2)(b); the purpose of ascertaining whether any person is responsible for any conduct which is improper. Where confirmation or denial would reveal whether a particular person is, or is not, under investigation and where this would, or would be likely to, prejudice such an investigation or the circumstances that underpin any allegations against them, public authorities should be alert to the need to apply the NCND provision.

**Public interest considerations favouring confirming or denying whether the information is held (Section 30)**

Maintaining public confidence in the police is vital, and there is inherent public interest in knowing that all allegations of criminality are robustly investigated and dealt with from within the Police Service. This is particularly pertinent in a high profile situation such as this, where media reporting has focused directly on the alleged criminal activity of a serving Officer from within Greater Manchester Police. Confirming or denying whether any information is held as to whether investigations have ceased or not, and the reasons why, would serve the public interest in knowing whether GMP has appropriately and effectively investigated matters and that any decisions not to bring a charge or disciplinary proceedings against the Officer are warranted.

**Public interest considerations favouring neither confirming nor denying whether the information is held (Section 30)**

GMP takes all allegations of criminality and corruption from within the force extremely seriously, and has confirmed through the documentary investigations were commenced. The documentary reported certain facts including that no charges or disciplinary proceedings were brought against the Officer, and it is recognised that there will be an increased public interest into the investigation because of this. However, as already mentioned, what may be of interest to the public is not the same as what is in the public interest. In this instance, it would not be in the public interest to disclose information (even inadvertently, through a confirmation or denial) which could identify investigative activity, or the lack thereof.

GMP has a duty to conduct investigations with a view to ascertaining whether an offence has been committed, and if so, whether a person should be charged with that offence, and whether a person charged with an offence is guilty of it. Consequently where confirmation or denial would reveal whether a particular person may or may not be under investigation at this time and where this would, or would be likely to, prejudice such an investigation, public authorities should be alert to the need to apply the NCND provision.

As outlined at the start of this response, it is necessary to use NCND exemptions consistently, regardless of whether the requested information is held or not. Consequently, citing this exemption in no way confirms or denies the existence of the information you seek.

### **Balancing Test**

After weighing up the competing interests I have determined that the Public Interest favours the application of the neither confirm nor deny stance in respect of your request concerning whether or not we hold information about whether investigations have, or have not, concluded into the unnamed GMP Officer.

I consider that the benefit that would result from issuing a confirmation or denial does not outweigh the considerations favouring the neither confirm nor deny response. This is because of the impact it would have on the individual and the impact it would have on the ability of GMP to fulfil our law enforcement functions and conduct any potential investigations into this matter, either now or in the future.

It is because of this that I feel the balance falls in favour of the maintenance of this stance, and why these exemptions are engaged and made out in this case.