



Date: 11/09/2024
Our ref: 01/FOI/24/013128/A

FREEDOM OF INFORMATION REQUEST REFERENCE NO: 01/FOI/24/013128/A

I write in connection with your request for information dated 16/08/2024, received by Greater Manchester Police (GMP) for the following information:

This is a freedom of information request from the Latin American Women's Rights Service (LAWRS), seeking the following information which relates to data being shared with the Home Office.

Background:

Emerging from a super-complaint made in 2018 regarding data sharing between the police and Home Office, calls for a data 'firewall' between policing and immigration enforcement have grown in the Black, Asian and Minority Ethnic (BAME) communities and BAME support sectors. <https://assets.publishing.service.gov.uk/media/5fdb0fa4e90e071be0347ac3/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf>

Recently, the Police Service of Northern Ireland (PSNI) completed an 'end-to-end review' to understand the extent of their data sharing. The review found that data was being sent to the Home Office primarily through an automated NICHE process created in June 2018 as part of Operation Nexus. NICHE is an electronic records and case management system used by many police forces across the United Kingdom <https://nicherms.com/who-we-serve/>. Other police forces may use different electronic records and case management systems/information recording systems, such as STORM, or may use a combination of multiple systems.

The NICHE process task directed investigating officers to complete a 'Foreign National Entry' form, which explicitly stated that officers must contact Home Office Immigration Enforcement for 'guidance on immigration status' every time a 'foreign national' had an official recorded interaction with the police. The text of the 'Foreign National Entry' form/template stated:

"You have been identified as the IO in an occurrence involving a non UK national. As part of your investigation, and regardless of the nature of the involvement of the individual, you should ensure that you have captured the following information and updated Niche accordingly.

1. Full name(s):
2. Gender:
3. DOB:
4. Town of Birth:
5. Home address (N. Ireland & abroad): Abroad:
6. National ID number:
7. Passport details:
8. Country of birth:
9. Nationality:
10. Parent's names;

In addition, you must ensure that you:

1. Conduct person checks on NICHE and PNC.
2. Contact Home Office Immigration Enforcement Command and Control Unit for guidance on immigration status and advice on nationality issues/identity documents: 03000 134 999 or 0161 2611 6403. If applicable seek a Foreign criminal record check immediately. (Submit UKCA 1 form to zInternationalLiaison). For further advice and guidance contact the Extradition & International Mutual Assistance team on ext. 69600 or email zInternationalLiaison."

We are seeking to understand if Greater Manchester Police has the same or similar NICHE process task and 'Foreign National Entry' form.

Request: This is an FoI request from LAWRS on the 15th August 2024 in relation to data sharing between the police and the Home Office. This is an FoI request for:

1. Confirmation that Greater Manchester Police does or does not use the NICHE electronic records and case management system (<https://nichirms.com/who-we-serve/>). If not, please confirm the electronic records and case management system(s)/information recording system(s) that you use.

2. What information Greater Manchester Police holds regarding tasking processes (or equivalent) for investigating officers, restricted to processes/forms/tasks involving collecting data on foreign nationals, this may be titled 'Foreign National Entry' template (as seen above) or similar.

2(a) copies of documents captured by (2) above.

3. What information Greater Manchester Police has in relation to data processing contracts, Memorandum of Understanding (MoU), service-level agreements (SLAs) and/or information sharing-agreements with the Home Office in line with section 6.7 of the Police information and records management Code of Practice.

3(a) Copies of documents captured by (3) above

Section 16 of the Freedom of Information Act 2000 states:

"16 Duty to provide advice and assistance.

(1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

This request supports the public interest in ensuring transparency around the practice of data sharing between the police and the home office in line with the issues raised in the HMICFRS super complaint including victims of domestic violence being scared to report to police for fear of their data being shared with the home office. This request is made in line with the Police information and records management Code of Practice, in particular section 4.37 which states that "Chief officers should ensure that systems are in place that make it easy to understand what information the force holds. The information should be stored in such a way that ensures its efficient retrieval", 4.28 which states "The purpose of any information technology asset, and the criteria against which personal data will be recorded onto it, must be clear and defined to avoid any ambiguity or ad-hoc recording" and 4.29 "Where possible, the existence of the asset should be publicly known, along with the criteria above (4.28)". <https://www.college.police.uk/guidance/police-information-and-records-management-code-practice>

For the avoidance of doubt, we are not seeking any personal information. Accordingly, we would appreciate Greater Manchester Police's advice and assistance in our request and would be happy to discuss our request further if there are any questions.

Result of Searches

Following receipt of your request searches were conducted within Greater Manchester Police (GMP) to locate the requested information and I can confirm the information requested is held by GMP. However, I am not obliged to supply you with all the information as exemptions apply.

The information requested in questions 2 and 2a is exempt under **Section 31(1)(a)(b) - Law Enforcement**. The information requested in questions 3 and 3a is exempt under **Section 14(1) - Vexatious Requests**

The Freedom of Information Act is a piece of legislation designed to give the public access to information held by public authorities. It exists to make the decisions of those authorities transparent and to keep the populace better informed regarding matters which affect them.

A Public Authority can refuse requests which can divert resources away from more deserving requests and other public business or threaten to undermine the credibility of the freedom of information system. It is recognised that dealing with unreasonable requests can place a strain on resources and get in the way of delivering mainstream services.

When identifying potentially vexatious requests the indicators contained within the Information Commissioner's guidance on Section 14(1) should be considered. In this case we feel the following indicator applies specifically to questions 3 and 3a of your request: Burden on the Authority.

Pursuant to the provisions of Section 14(1) of FOIA a request deemed as overly burdensome does not oblige GMP to comply with a request for information. The ICO confirms within their guidance that they consider there to be a high threshold for refusing a request on such grounds if there is a viable case in line with the below recommendations:

1) The requester has asked for a substantial volume of information and

- 2) The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO and
- 3) Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

As such, questions 3 and 3a is being refused due to the amount of time required to review and prepare the information for disclosure, which would impose a grossly oppressive burden on the organisation. To provide the data requested for questions 3 and 3a, would involve manual redactions to each piece of data in the requested documents so they do not contain operationally sensitive and personal information which could identify directly or indirectly a living human therefore Section 31(1)(a)(b) Law Enforcement and Section 40(2) Personal Information will be engaged as this represents information that identifies a living individual, to disclose this information would breach the principles of the GDPR and the Data Protection Act 2018. Personal data is defined by Article 4 of the GDPR and Part 1 of the Data Protection Act 2018 and means any information relating to an identified or identifiable natural person ('data subject'). An identified natural person is one who can be identified directly or indirectly from that data.

There are 16 separate documents that have been identified as relevant to questions 3 and 3a, with a total of 392 pages that would each have to be reviewed. Therefore, at a very conservative estimate of 5 minutes to review and redact each page, it would take approximately 33 hours to ascertain the data required for question 2. For this reason, any further requests of this nature will be refused under Section 14(1) of the Act, which states that requests that are considered to be vexatious do not have to be complied with.

Section 31 is a qualified and prejudice-based exemption and as such, subject to a harm and public interest test.

S31(1) - Evidence of Harm

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, providing any further information relating to specific processes within Greater Manchester Police would reveal our evidence gathering capability, which would be of intelligence value to criminals.

Disclosure of tactics at the police's disposal will mean that those members of the public who are committing crimes and pose a risk to the public, would be able to formulate ways to circumvent those processes. If disclosed, the tactics used by GMP will become less effective and will mean that the police are not able to detect and prevent crime, apprehend, or prosecute offenders or to administer justice for the wider community.

There is always a duty of care to the public and GMP has a clear responsibility to ensure the prevention or detection of crime, and the apprehension or prosecution of offenders is always delivered. There are several tactics available to us to ensure the effective delivery of operational law enforcement. In this case, specialist policing activity is required to undertake fair investigations where it may be necessary to progress a range of reasonable lines of enquiry.

As such, the disclosure of any further information which would hinder the force's law enforcement functions cannot be in the public interest.

Public Interest Test

Factors favouring disclosure for S31 - Where public funds are being spent, there is a public interest in accountability and justifying the use of public money. Disclosure of the requested information would enable the public to assess whether the force has appropriately taken steps to help reduce and detect crime. Release would enhance public debate as to whether the force is appropriately and effectively engaging with the threat posed by criminals.

Factors against disclosure for S31 - Disclosure that reveals our operational capabilities would compromise law enforcement tactics. Criminals could use the information to target areas of perceived weakness believing that their activities are less likely to be detected. It may be used by criminals who are intent on pursuing their criminal activity, to identify and exploit the limitations of these resources.

Any disclosure of information which would compromise law enforcement tactics and thus lead to more crime being committed by reducing the opportunity for the prevention and detection of crime, would therefore increase the risk to public safety, which is not in the public interest.

Balancing Test

Law enforcement is of paramount importance and GMP will not disclose information if to do so would undermine its purpose and place the safety of individuals at risk. Whilst there is a public interest in the transparency of using public money in policing appropriately and effectively engaging with the threat posed by criminals, there is a very strong public interest in safeguarding the integrity of police investigations and operations in this area.

As much as there is public interest in knowing that policing activity is appropriate and balanced in matters of law enforcement, this will only be overridden in exceptional circumstances. Any disclosure which hinders our capability and assists criminals cannot be in the public interest.

It is for these reasons that I have determined that the balance test favours non-disclosure of the requested information.

Question 1 is not exempt and is answered below.

1. GMP do not use NICHE.