

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 June 2020

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested details about the Project Alpha database from the Metropolitan Police Service (the "MPS"). The MPS provided some of the requested information but refused the remainder, citing the exemptions at sections 31(1)(a) and (b) (Law enforcement) of the FOIA.
2. The Commissioner's decision is that section 31(1) is properly engaged and that the public interest lies in maintaining the exemption. No steps are required.

Background

3. The MPS provided the following information to the Commissioner:

*"Project Alpha was set up in June 2019 and is a dedicated police resource aimed at **developing intelligence** from social media platforms linked to offline gang violence and serious and organised crime. The MPS hosted project is sponsored by the National Police Chiefs Council (NPCC) and funded by the Home Office.*

The main purpose of the project is to take action against online gang related content to prevent threat, risk and harm, focusing on investigation, disruption and enforcement activity utilising proactive and covert methods. Additionally the project makes referrals to

social media companies for the removal of illegal and harmful gang content that may incite violence, such as Drill music videos.

The project to date has brought to light threats and risk that would otherwise not have been identified through other policing methods, resulting in numerous intelligence reports for direct action and evidential packages in support of active operations and investigations, as well as content takedowns via industry partners. The team also deliver work for county force colleagues to test the concept and scale of the issues faced in other parts of the UK.

The database is therefore a live working document that holds data beyond that requested by the applicant, which has been made in reference to just the single function of content removal conducted within Project Alpha”.

4. The MPS further explained:

“Where possible, the Met takes action against individuals appearing in violent content and works with the CPS in order to apply existing law to tackle those who do so. The Met works only to identify and remove content which incites or encourages violence; it does not seek to suppress freedom of expression through any kind of music. In June 2019 the Met set up a team of officers called Project Alpha, a Home Office-funded initiative. Officers will identify potentially harmful content for referral to the relevant social media platform requesting removal for breaching the platforms community/company guidelines. The team continues to work closely with social media companies regarding violent content. Project Alpha officers are young, street-wise and have previous experience of working in gang units across the capital; they have extensive insight into gangs, understand the slang and colloquial language used and can spot emerging threats. The team continues to work to understand the reality of the links between online activity and ‘real world’ offline offending”.

Request and response

5. On 18 June 2020, the complainant wrote to the MPS and requested information in the following terms:

“I would like to request a complete list of all of the fields in the MO2 Project Alpha database regarding requests to remove online content in respect to gang related activity.

Examples of fields might be: url, date of request, reason for request ... etc... (just to give you an idea of what info I am after).

For each field indicate if it is free text or multiple choice.

If it is multiple choice please list all of the different drop-down menu options”.

6. On 3 August 2020, the MPS responded. It refused to provide the requested information, citing sections 31(1)(a) and (b) of the FOIA.
7. The complainant requested an internal review on 3 August 2020.
8. The MPS provided an internal review on 3 September 2020 in which it revised its position, disclosing some of the information but withholding the remainder under the exemptions previously cited.

Scope of the case

9. The complainant contacted the Commissioner on 23 September 2020 to complain about the way his request for information had been handled. He did not provide any specific grounds of complaint, saying only:

“I don't understand why some fields have been withheld. I'd like to get the ICO to investigate”.

10. The Commissioner invited further arguments from the complainant but none were provided.
11. The Commissioner will consider the application of sections 31(1)(a) and (b) of the FOIA to the withheld content below.
12. The Commissioner has been given access to the database (which is a spreadsheet) and has viewed the requested information via an online portal.
13. Whilst discussing the database, the Commissioner was advised that an earlier initiative, ‘Operation Domain¹’, related specifically to the removal of gang-related online content. Subsequently, this fed into ‘Operation Alpha’ which is a wider gang-related database. The data gathered for Domain, i.e. removing online content, as specified in this request, is therefore a subset of the Operation Alpha database.

¹ <https://questions-statements.parliament.uk/written-questions/detail/2018-01-23/124503>

14. When viewing the database, the Commissioner noted that some of the previously disclosed column header names did not match the wording on the current database. She queried this and was advised:

"The Alpha team remains relatively new and the tracker as a working document continues to develop to allow us to capture data for our own policing purposes and reflect our progress. It has also been developed to capture specific metrics in order to complete a quarterly and end of year return to the Home Office to demonstrate performance and justify Government funding. The difference in the number of headings reflects the changes made to the tracker between the internal review disclosure and the information we supplied to [the Commissioner] within the spreadsheet in order to capture relevant data".

15. At the time of the request, the database consisted of 16 column headings, 13 of which were disclosed to the complainant; five of these had 'drop-down menu options'. As the database has developed, it has since changed and some heading titles have been revised and more columns have been added. The Commissioner's investigation covers the database as it stood at the time of the internal review.
16. The MPS has confirmed that the Commissioner may disclose that one of the drop down options in the 'Platform' heading is 'YouTube'. She was advised that this could be disclosed in this notice because:

"... the MPS has previously provided figures to interested parties (media and FIOA [sic] requests) regarding the number of referrals made to YouTube by project Alpha to remove content in the belief it will incite gang violence".

17. The Commissioner considers that the withheld information in this case consists of three column headings and the remaining 'drop down' options in the following disclosed column headings: Referral Unit, Referral Type, Platform, Action and Constabulary. This information has been withheld under section 31 of the FOIA.

Reasons for decision

Section 31 – Law enforcement

18. Section 31 of FOIA creates an exemption from the right to know if disclosing the information would, or would be likely to, prejudice one or more of a range of law enforcement activities. In this case, the MPS is relying on sections 31(1)(a) and (b) of the FOIA in relation to the withheld information. These subsections state that information is exempt if its disclosure would, or would be likely to, prejudice: (a) the

prevention or detection of crime; (b) the apprehension or prosecution of offenders.

19. In order to engage a prejudice based exemption such as section 31 there must be likelihood that disclosure would, or would be likely to, cause prejudice to the interest that the exemption protects. In the Commissioner's view, three criteria must be met in order to engage a prejudice based exemption:
- Firstly, the actual harm which the public authority alleges would, or would be likely to, occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;
 - Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and,
 - Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice.
20. Consideration of the exemption at section 31 is a two-stage process: even if the exemption is engaged, the information should be disclosed unless the public interest in maintaining the exemption outweighs the public interest in disclosure.
21. In its submission to the Commissioner, rather than differentiate between the subsections of the exemption, the MPS has presented one set of arguments. The Commissioner recognises that there is clearly some overlap between subsections 31(1)(a) and 31(1)(b) and she has therefore considered these together.

The applicable interests

22. The first step in considering whether this exemption is engaged is to address whether the prejudice predicted by the public authority is relevant to the law enforcement activities mentioned in sections 31(1)(a) and (b) – the prevention or detection of crime and the apprehension or prosecution of offenders.

23. With respect to law enforcement activities, the Commissioner recognises in her published guidance², that section 31(1)(a) will cover all aspects of the prevention and detection of crime. With respect to section 31(1)(b), she recognises that this subsection: "... *could potentially cover information on general procedures relating to the apprehension of offenders or the process for prosecuting offenders*".
24. The Commissioner acknowledges that the arguments presented by the MPS refer to prejudice to the prevention or detection of crime and to the apprehension or prosecution of offenders and that the appropriate applicable interests have therefore been considered.

The nature of the prejudice

25. The Commissioner next considered whether the MPS has demonstrated a causal relationship between the disclosure of the information at issue and the prejudice that sections 31(1)(a) and (b) are designed to protect. In her view, disclosure must at least be capable of harming the interest in some way, ie have a damaging or detrimental effect on it.
26. The titles of three of the columns have been withheld in their entirety. Regarding the columns with drop down menus, the names of which have been disclosed, the MPS described their content as follows:

Referral Unit - drop down menu detailing a list of MPS Units / teams but not exclusive so therefore also a free text box to capture other referrals.

Referral Type - These referrals are made by other Units / Teams within the MPS but also by other police forces nationally.

Platform – drop down menu detailing a list of social media platforms. Selected from information contained within a referral.

Action - drop down menu detailing a list of actions undertaken by the Alpha team having received a referral requesting support.

Constabulary – drop down menu detailing a list of constabularies Project Alpha has collaborated with.

27. In its refusal notice the MPS advised the complainant that:

"... the release and publication of the fields and drop-downs options available within the Project Alpha database, would provide

² <https://ico.org.uk/media/for-organisations/documents/1207/lawenforcement-foi-section-31.pdf>

offenders with information that would assist them to evade police and commit offences. This would prejudice the ability of the police to both prevent and detect crime and apprehend those responsible for committing criminal offences”.

28. And, at internal review, it added:

“Providing you with a complete list of all of the fields in the MO2 Project Alpha database regarding requests to remove online content in respect to gang related activity would result in an adverse effect, by providing those individuals who would wish to circumvent the law with invaluable intelligence, which would compromise the police service function of the prevention and detection of crime”.

29. In correspondence with the Commissioner the MPS added:

“Project Alpha’s core operational business includes the responsibility of gathering, assessing, analysing and disseminating intelligence and information relating to criminal activity where there is a substantial threat to public order arising from serious gang violence and organised crime. In consideration of the nature of the work, the unit undertakes there is a need to protect intelligence, the disclosure of which would itself cause prejudice.

... Clearly, the type of information entered as intelligence on the database could reasonably be speculated upon, albeit the MPS’s contends that to disclose the details of the fields within the database would be likely to undermine and prejudice the effectiveness of the database itself and by association prejudice the ability of the police to carry out their law enforcement duties effectively. Accordingly the MPS would rather those looking to undermine law enforcement processes and thereby avoid detection and or arrest are left speculating.

Just as police collect information for intelligence purposes so do those intent on committing criminal acts and the release of any information relevant to this request places useful information into the public domain and increases the likely ‘mosaic’ effect. The ‘mosaic’ effect is in effect the building up of a jigsaw, gradually filling in the pieces to form a complete picture. The potential adverse effect on disclosure is covered in detail within the ICO’s own guidance in regard to the building blocks of information put together with that already in the public domain, however in this instance it could be that disclosure of the fields from the Project Alpha database forms the initial blocks of a ‘mosaic’ pyramid yet to be built.

As social media continues to become an ever increasing and important method of communication it is vital the MPS develops and maintains an effective capability to address the threat, risk and harm generated through the online activity of gangs.

*One of the key responsibilities of the Project Alpha as a dedicated resource is aimed at **developing intelligence** from social media platforms to tackle gang related serious violence and serious organised crime played out across social media. Given the remit of Project Alpha and its status, disclosure of all the headers and drop down menus on the database would provide a clear indication to those individuals that the police monitor and record specific data and that the data is also shared. I do not believe it is in the public interest to disclose details of the structure of the fields as disclosure would allow criminals to use this level of detail to not only gain intelligence but also to try and evade detection, which would not be in the public interest. Providing such an operational advantage over the MPS by disclosure of all the information would have a detrimental effect on Alpha's capabilities and furthermore, make it harder for the MPS to apprehend and prosecute offenders if they are provided an in-depth understanding of our database.*

The Unit monitor (online surveillance) and analyse information to identify intelligence and evidence, online behaviour, tactics, people committing offences and tracing wanted offenders. The team collect 'open source' information that is information gathered from social media accounts (private and open), websites and mainstream media. They also collect post event information, such as where gang related incidents have occurred and relevant online commentary. This information is used to support live proactive operations and surveillance deployments, active investigations and provide tactical advice and guidance in order to promote a coordinated and consistent approach in tacking [sic] gang crime.

The information above is the MPS contends, sufficient to satisfy the public interest into the working of the database and for the MPS to disclose further details of the specific headings would potentially lead to the prejudice as outlined earlier in the response".

30. The Commissioner accepts that disclosing exactly the type of information that is recorded in the database would give a valuable insight into the types of intelligence being collected; this would obviously be of use to offenders seeking to avoid detection.
31. She also agrees that disclosure would reveal the scope of Project Alpha and the frequency of its use within specific areas of policing. This, in turn, would inform offenders of the types of locations, platforms and force areas which are more likely to be monitored by the MPS. The MPS

has added: "... *disclosure would provide confirmation of investigative options available to the MPS ... This would inform and embolden the offender. An informed and emboldened offender would be more likely to commit offences and be successful in doing so*".

32. Furthermore, the MPS has explained that disclosure would: "... *limit operational capabilities as individuals would gain a greater understanding of the police's methods and techniques, enabling offenders to take steps to counter them*", and that it may "... *also suggest the limitations of police capabilities in this area, which may further encourage criminal activity by exposing potential vulnerabilities*".
33. On the evidence provided, the Commissioner is satisfied that the MPS has demonstrated a causal link between the requested information and the applicable interests relied on, and that disclosure would be likely to have a detrimental impact on law enforcement.

Likelihood of prejudice

34. With regard to the likelihood of prejudice in this case, the MPS has confirmed that it is relying on the lower level of 'would be likely to' prejudice.

Is the exemption engaged?

35. In a case such as this, it is not enough for the information to relate to an interest protected by sections 31(1)(a) and (b), its disclosure must also at least be likely to prejudice those interests. The onus is on the public authority to explain how that prejudice would arise and why it would occur.
36. The Commissioner recognises the importance of protecting information which, if disclosed, would undermine law enforcement activity or make someone more vulnerable to crime.
37. Having considered the arguments put forward by the MPS, the Commissioner accepts that the requested information would be useful to someone intent on establishing details about the type of information the MPS is / isn't collating in respect of this type of crime, which would be likely to be prejudicial to law enforcement. Consequently, she is satisfied that its disclosure would be likely to represent a real and significant risk to law enforcement matters.
38. As the Commissioner accepts that the outcome of disclosure predicted by the MPS would be likely to occur, she is therefore satisfied that the exemptions provided by sections 31(1)(a) and (b) are engaged.

Public interest test

39. Section 31 is a qualified exemption. The Commissioner must now consider whether, in all the circumstances of the case, the public interest in maintaining the exemption at sections 31(1)(a) and (b) of the FOIA outweighs the public interest in disclosing the information requested by the complainant.

Public interest considerations favouring disclosure

40. The complainant did not provide any arguments.
41. The MPS acknowledged and recognised the value in public transparency and accountability in police activities in order to maintain confidence and trust with the public. It accepted that full disclosure *"would enable the public to gain an awareness of exactly what information is of interest to police and monitored"* and that it would also *"hold the MPS to account regarding how we perform our functions"*.

Public interest arguments in favour of maintaining the exemption

42. The complainant did not provide any arguments.
43. The MPS argued as follows:

"The prevention of crime is the foundation upon which UK policing is built. The police have a clear responsibility to prevent and detect crime and arrest those committing or attempting to commit crime. In this instance disclosure ... would disclose operationally sensitive information relevant to the core business of Project Alpha. In consideration of the Project Alpha's intelligence gathering role, it is not in the public interest to disclose full details of the fields on the database as this would result in being operationally harmful and disadvantageous to the police service which would not be in the public interest".

44. It said that it appreciated that individuals may have a genuine interest in the database, however, it did not consider that it was in the public interest to disclose information that may compromise its ability to fulfil its core function of law enforcement or jeopardise the safety of the public.
45. It said that it is important that the police service: *"is not compelled to reveal information which would adversely affect its ability to gather intelligence"* and that disclosing the full details requested could reveal any limitations of police capabilities in this area, which may encourage criminal activity by exposing any possible vulnerabilities. It added:

"Any compromise no matter how minimal it may appear would substantially prejudice the ability to police these areas which would lead to a greater risk to the public".

46. The MPS further expanded its position saying:

"... the database sits with the Project Alpha Team within the MPS and exists as a repository and analytical tool for intelligence that assists officers investigating, researching and developing intelligence from social media platforms linked to offline serious gang violence. Our officers will identify potentially harmful content for referral to the relevant social media platform requesting removal for breaching the platforms community/company guidelines. The team work closely with social media companies regarding violent content. Project Alpha officers have extensive insight into gangs, understand the slang and colloquial language used and can spot emerging threats. The team work to understand the reality of the links between online activity and 'real world' offline offending. Enabling criminals to understand the information and types of information we record would damage the work of the police in ensuring processes are carried out effectively and robustly. To hinder the prevention and detection of crime in such a way would not be in the public interest.

Disclosure would technically be releasing sensitive operational information into the public domain which would be far more revealing. It would demonstrate exactly where the MPS look which in turn would enable those with the time, capacity and inclination to map strategies used by the MPS resulting in it being harder for the MPS to monitor and prevent".

Commissioner's conclusion

47. In carrying out the statutory balancing exercise in this case, the Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption - that is, the public interest in avoiding likely prejudice to law enforcement matters. Clearly, it is not in the public interest to disclose information that may compromise the police's ability to accomplish its core function of law enforcement.
48. In that respect, she recognises that there is a very strong public interest in protecting the law enforcement capabilities of a police force and she considers that appropriate weight must be afforded to the public interest inherent in the exemption - that is, the public interest in avoiding prejudice to the prevention or detection of crime and the apprehension or prosecution of offenders.

49. The Commissioner also recognises the need to ensure transparency and accountability on the part of the police. However, she finds that there is a stronger public interest in ensuring that precise details regarding the intelligence the MPS collects is not revealed. She finds that full disclosure in this case would not better serve the interests of the public. Policing techniques can only be properly effective when full policing capabilities are not made available to those who would seek to evade the law and take advantage of such knowledge to the detriment of the wider public.
50. In the circumstances of this case, the Commissioner considers that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It follows that the MPS was entitled to rely on sections 31(1)(a) and (b) of FOIA to refuse to disclose the requested information.

Right of appeal

51. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

52. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
53. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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