

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 25 October 2023

**Public Authority:** Wychavon District Council  
**Address:** Civic Centre  
Queen Elizabeth Drive  
Persnore  
WR10 1PT

#### **Decision (including any steps ordered)**

---

1. The complainant has requested information held by Wychavon District Council (the council) about the operation of CCTV within the local area of Evesham.
2. Whilst the council released some information, it issued a refusal notice in response to question 4 and question 6 of the complainant's request, citing the exemption at section 31(1)(a) – the prevention and detection of crime, of FOIA.
3. The Commissioner has decided that the council is entitled to rely on section 31(1)(a) as its basis for withholding the information relevant to question 4 and question 6 of the complainant's request.
4. The Commissioner does not require further steps to be taken by the council.

## Request and response

---

5. On 25 July 2023, the complainant wrote to the council and requested the following information (the Commissioner has added the numbering for ease of reference).

“Under the Freedom of Information Act, could you tell me:

Question 1. How many CCTV cameras are there in Evesham?

Question 2. How many are working?

Question 3. What make are the cameras?

Question 4. Locations of the cameras?

Question 5. Which ones are recording?

Question 6. Do any have Facial Recognition facilities? If so, which ones, and is it active? If any do have Facial recognition and it isn't active, do you have any plans to use it around Evesham?”

6. The council responded to the complainant on 27 July 2023, providing some of the requested information. However, the council advised that it considered that the information relevant to question 4 (Q4) and question 6 (Q6) was exempt from disclosure under section 31(1)(a) of FOIA, and that the public interest favoured maintaining this exemption.
7. The complainant requested an internal review, and on 10 August 2023, the council provided its response, upholding its original decision.

## Scope of the case

---

8. The complainant has raised concerns with the Commissioner about the council's decision to withhold information in response to their request.
9. The Commissioner will therefore decide whether the council is entitled to rely on section 31(1) of FOIA as its basis for refusing to provide the information held that is relevant to Q4 and Q6 of the complainant's request.

## Reasons for decision

---

### Section 31(1)(a) – prevention and detection of a crime

10. Section 31(1)(a) states that information is exempt if its disclosure would, or would be likely to, prejudice the prevention or detection of crime.
11. The Commissioner's [guidance](#) on section 31(1)(a) confirms that the exemption covers all aspects of the prevention and detection of crimes. In addition, the guidance states that the public authority does not need to have responsibility to investigate crime in order to rely on this part of the exemption, nor does it have to demonstrate that the information is being held for the purpose of preventing or detecting a crime. The public authority only has to demonstrate that disclosing the information could harm efforts to prevent or detect a crime.

#### The council's position

12. The council has said that it believes that disclosure of the information relevant to Q4 and Q6 'would be likely' to prejudice the prevention and detection of a crime.
13. The council has argued that revealing the specific locations of CCTV cameras would allow criminals to build up a map of CCTV coverage across the area. The intelligence could then be used to target their activities in particular 'safe areas,' where they could operate undetected.
14. The council has said that it acknowledges that an individual can go and physically find the location of the cameras in publicly accessible areas. However, it argues that this is different to revealing the exact locations to the 'world at large,' which would provide criminals with access to a list and a map that can be easily looked up.
15. The council goes on to say that should a person choose to go to an area in order to locate the position of each of the cameras, it is also likely to raise suspicion or concern with the CCTV operatives who are trained to recognise suspicious activity. The council has said that it may put the operatives on notice that an individual is 'up to no good,' and therefore assist with the detection and prevention of crime.
16. With regard to Q6, the council has said that knowing that cameras either do, or do not, have facial recognition would also give criminals the upper hand in knowing the quality of the identification and where they are likely to be recognised. The council says that if criminals were aware of the full capabilities of the cameras it could lead them to use techniques to hide their identity, such as disguising their appearance, or the

cameras themselves may be targeted them by criminals wanting to put them out of operation.

The Commissioner's analysis

17. The Commissioner is satisfied from the information that has been provided by the council, and the details that are published on its [website](#), that the purpose of the installation of the CCTV within the Evesham area is to assist with the prevention and detection of crime, the apprehension of offenders, and also to help reduce the fear of crime.
18. The Commissioner accepts that any individual could visit the Evesham area and locate the position of the CCTV cameras. In addition, the Commissioner's [guidance](#) indicates that the signage installed within the area where CCTV is in operation should specify when live facial recognition technology is being used. Individuals could therefore also check the signage to establish the capability of each of the cameras in operation in Evesham.
19. However, the Commissioner considers that there is a significant difference between an individual actively seeking out the requested information by conducting a search of the area, and having access to the information following its release in response to an FOIA request.
20. In the Commissioner's opinion, revealing the exact location of CCTV cameras and whether they have facial recognition capability (or if there are plans to use this in the future) to the 'world at large' in response to an FOIA request would provide criminals with a quick and easy way of accessing useful intelligence; it would allow them to covertly consider their options, map areas, plan routes and identify where there would be a high, or low, risk of being identified by CCTV when carrying out criminal activities.
21. Having considered the information available, the Commissioner accepts that the potential prejudice described by the council (the harm which would be caused to its ability to use its CCTV effectively for the purpose for which it was intended), relates to the interests which the exemption that section 31(1)(a) is designed to protect (the prevention and detection of crime).
22. The Commissioner is also satisfied that the prejudice being claimed in this case is 'real actual or of substance,' and that there is a causal link between the disclosure of the withheld information and the prejudice claimed. This is because, in the Commissioner's opinion, there is a real and significant risk that the disclosure of the information about the location of the CCTV and whether the cameras use facial recognition

technology would assist criminals in avoiding detection and, or, being identified when engaging in criminal activity.

23. The Commissioner is therefore satisfied that the release of the information relevant to Q4 and Q6 of the request would be likely to prejudice the council's ability to detect and prevent crime, and that the exemption at section 31(1)(a) is engaged.
24. As section 31(1)(a) is a qualified exemption, the Commissioner must now go on to consider whether, in all the circumstances of the case, the public interest in maintaining the exemption at section 31(1)(a) outweighs the public interest in disclosing the information.

### **Public interest test**

#### The complainant's position

25. The complainant argues that the information relevant to Q4 and Q6 of their request should be disclosed; they state that the cameras are in a public place and the public has a right to know their location.
26. The complainant has also argued that details of the facial recognition capability of the cameras and, or, future plans for the use of facial recognition should also be released. They have said this has data protection implications as the council will be recording and storing personal data and should therefore be informing the public about whether facial recognition is in operation. The complainant has also said that the withheld information would assist the public when considering whether to make a subject access request for information that may be held about them that has been captured by CCTV.

#### The council's position

27. The council has said that it acknowledges that there is a public interest in transparency, and that given this, it publishes some information on its website about the installation and its use of CCTV, and also ensures that it displays appropriate signage where CCTV is in operation. The council has also said that it has provided additional information about the use of CCTV in response to the complainant's request, including the number of cameras that operate in the Evesham area.
28. The council states that it considers that there is a strong public interest in maintaining its ability to gather intelligence, detect and prevent serious crimes, and ensure the protection of public spaces as well as the safety of the people of Evesham. The council says that it is key that society is protected against the impacts of crime as this adversely impacts the public wellbeing and also the public purse.

29. The council has argued that disclosing camera locations would indirectly reveal those areas which are free from CCTV coverage, and that this would undermine its efforts to protect the public. The council has said that this could lead to increased criminal behaviour, such as vandalism, not being covered by CCTV.
30. The council has said that the CCTV in Evesham has a number of uses, including deterring, detecting, and preventing crime and terrorist activities, assisting emergency services, and providing evidence in criminal proceedings, and that CCTV footage is key in maintaining public safety and bringing criminals to justice.
31. In addition to the public interest arguments set out above, the council also made reference to decision notice [IC-184503-Q0C5](#), issued on 22 December 2022, and decision notice [FS50633090](#), issued on 22 February 2017, in its response to the complainant. The council has also referred the Commissioner to an additional decision notice, [IC-241352-T8K5](#), issued on 13 December 2023, which it considers supports its position that the public interest favours maintaining the exemption at section 31(1)(a) in this case.

#### The balance of the public interest

32. The Commissioner considers that there is some public interest in the disclosure of the information. It would provide further transparency about how the council operates CCTV as part of its effort to reduce crime and increase safety in the area.
33. The Commissioner has considered the decision notices referred to by the council as set out in paragraph 31 of this decision notice. In particular, he regards the details set out in decision notice IC-241352-T8K5 to be relevant to this case.
34. The Commissioner acknowledges that some members of the local community may have concerns about the use of facial recognition technology and the operation of CCTV in the areas where they live. The Commissioner also agrees with the complainant that the public have a right to know why and how any personal data that is held as a result of the use of CCTV is being processed by the council.
35. However, the Commissioner considers that the council has taken reasonable steps to ensure that it complies with its obligations under [Article 5\(1\)\(a\)](#) of the UK General Data Protection Regulation, which states that personal data shall be "processed lawfully, fairly and in a transparent manner in relation to the data subject."
36. The council provides information to the public about the operation of CCTV (this includes information published on its website and signage

where CCTV is in use) in the local area. The Commissioner considers that such information should provide the public and local community with some reassurance about the operation of CCTV within the Wychavon area, how it will be used, and the purposes for which any personal data captured will be processed.

37. The Commissioner has concerns that the disclosure of the information would allow individuals with criminal intent to be able to easily target vulnerable areas where they will not be easily identifiable (or alternately take active steps where they know they will be identified). This, in the Commissioner's view would be in direct contradiction of the primary purpose of having the CCTV in operation; disclosure would weaken mechanisms used to prevent and detect crime and this would not be in the public interest.
38. The Commissioner considers there to be a strong public interest in avoiding prejudice to the ability of the council, and the police, to prevent and detect crime and to apprehend and prosecute offenders.
39. Therefore, whilst recognising that there is a general public interest in openness and transparency, and understanding what steps are being taken by the council to keep the residents of Evesham safe, the Commissioner does not consider this to be sufficient to tip the balance in favour of disclosure. The Commissioner considers that, in this instance there is a much stronger public interest in making sure that the CCTV is used effectively for the detection and prevention of crime, and protecting the residents of Wychavon.
40. In conclusion, the Commissioner considers that the public interest in maintaining the exemption outweighs the public interest in disclosure. Consequently, he has determined that the council appropriately applied section 31(1)(a) to the withheld information.

## Right of appeal

---

41. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

42. 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.
43. 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 .....**

**Suzanne McKay**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**