



Altogether Better Policing

Information Rights and Disclosure
Digital Data and Technology Command
Police Headquarters
Aykley Heads
Durham
County Durham
DH1 5TT

Web Site: www.durham.police.uk

E-mail: freedomofinformation@durham.police.uk

Phone: 0191 3752582



**Request to Durham Constabulary under the Freedom of Information Act
Received on 25/04/2022 Our Ref: FOI/355/22**

Date: 31/05/2022

Your request:

The Leader of the Labour Party, a leading politician who should be accountable, has, I am told by this article, refused to say whether there was contact between himself and Durham Constabulary (or presumably other way around, contact from the police with him), therefore regrettably we have to submit this information request to try to find out.

Please disclose, preferably by PDF, copies of any communications (or any record of their being any) to/from the Labour Leader by this police service. Presumably in relation to the event/alleged gathering in question. Of course this FOI request can only target information in recorded (therefore written) form - written carrying a wide meaning of anything visible that someone can read, so includes text in records stored by computer, this isn't a limitation on the request merely a statement of the fact it is for recorded information. I accept that there could have been telephone calls made to the Labour Leader by the police for example and recordings of those calls not kept, so the request inevitably can't be definitive in that way as to no contact but at least we can, hopefully, see if there was anything that has for example been put in writing, could have been emailed to the Labour Party, or - my request was extended as indicated above - any record that points to their being communication with the Labour Leader over this event, which basically means although telephone calls may not be recorded, there may be a record of a telephone call taking place and a copy of that record (any such records) is requested for release here. "Telephone call with Keir Starmer/Telephone call with Labour Leader x date y time (or may not have time specified in it)" - that sort of record, that therefore is a record that a call took place even though record of what was said in a call might not due to it taking place orally and not being recorded by the police so the call content itself not held (although if the police have recorded any calls involving him over this matter/this event, they are within my request, I will assume unless told the contrary that recorded telephone call information isn't held as normally recorded information would be the written comms if any).

Amendment:

An email between officers - "I spoke to Keir Starmer about this" - that sort of information is also caught by my request.

The police don't need to check all officers in the force for this - just any that have dealt with the enquiries over the event in question to see if they have recorded any comms. that record there being communication with Mr Starmer over this thing.

Thank you.



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Response:

Durham Constabulary can neither confirm nor deny that it holds any information relevant to your request as the duty in Section 1 (1) (a) of the Freedom of Information Act 2000 (FOIA) does not apply by virtue of the following exemptions under the Freedom of Information Act 2000:

Section 40 (5) Personal Information

Section 30 (3) Investigations

Section 31 (3) Law Enforcement

S.40 (5) Personal Information.

Durham Constabulary (the Force) neither confirms nor denies that it holds the personal information you have requested as the duty in Section 1(1) (a) of the FOIA (General Right of Access) does not apply by virtue of either the Section 40 (5A) & Section 40 (5B) (a) (i) FOIA (Personal Information) exemption.

A Freedom of Information request is not a private i.e., a one-to-one disclosure. Both the request itself, and any information disclosed, are considered suitable for open publication i.e., can be published on the Force's external website. This is because, under FOIA, any information disclosed is released into the wider public domain, effectively to the world at large and not just to one individual i.e., the person who made the FOI request.

To confirm or deny whether personal information exists in response to your request under FOIA, could publicly reveal information about third-party individuals, thereby breaching the right to privacy afforded to ALL persons under the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulation (GDPR).

If you are requesting third party personal data, Durham Constabulary must ensure that it complies with the fair processing Principles outlined under section 34 of the DPA 2018 and under Article 5 of the GDPR and in the main will only release third party information to another person, via a Court Order.

Section 30 (3) Investigations

Section 30 (3) is a class based exemption, this exemption requires me to perform a Public Interest Test and describe harm that could be caused if the constabulary was to either confirm or deny that the requested information is held:



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Harm

The harm in confirming or denying that the requested information is held would be that it could affect / hinder an ongoing police investigation.

Please follow below link to access Durham Constabulary's (The Force's) press statement issued on the 6th May 2022 regarding the confirmation of the commencement of an investigation:

<https://www.durham.police.uk/News/News-Articles/2022/May/Durham-Constabulary-Press-Statement.aspx#:~:text=Durham%20Constabulary%20Press%20Statement%20Posted%20on%20Friday%206.gathering%20in%20Durham%20City%20on%20April%2030%202021.>

Public interest in favour of confirming or denying the requested information is held:

It is acknowledged there is a public interest in this investigation.

Investigations are funded with public money.

The public are entitled to know that Durham Constabulary is conducting investigations in an effective manner.

Public interest in favour of neither confirming or denying that the requested information is held:

This investigation is currently ongoing, to disclose **any** information (or even confirm if it is or isn't held) could affect and possibly undermine that investigation.

The greater public interest is that police investigations should be allowed to continue unaffected and unhindered by any release of information (or to confirm or deny specific information is held)

Balancing Test

As this is currently an active / open investigation, the public interest balance has fallen in favour of not confirming or denying that any information is held in relation to your request.

An ongoing investigation must be allowed to continue unhindered.

S.31 (3) Law Enforcement



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Section 31 (3) is a prejudice-based exemption, this exemption requires me to perform a Public Interest Test and describe harm that could be caused if the constabulary was to either confirm or deny that the requested information is held:

Harm

The harm in confirming or denying that the requested information is held would be that it could affect / hinder an ongoing police investigation.

Public interest in favour of confirming or denying the requested information is held:

It is acknowledged there is a public interest in this investigation.

Investigations are funded with public money.

The public are entitled to know that Durham Constabulary is conducting investigations in an effective manner.

Public interest in favour of neither confirming or denying that the requested information is held:

This investigation is currently ongoing, to disclose **any** information (or even confirm if it is or isn't held) could affect and possibly undermine that investigation and subsequently reduce Durham Constabulary's Law enforcement capabilities.

To confirm or deny any information is held in relation to your quest would in essence by disclosing evidence that may or may not be held in relation to a live investigation, this would undoubtedly affect the law enforcement capabilities of Durham Constabulary.

Balancing Test

As this is currently an active / open investigation, the public interest balance has fallen in favour of not confirming or denying that any information is held in relation to your request.

It is also in the Public Interest that Durham Constabulary maintains its Law Enforcement capabilities.

CONCLUSION

This Section 17 (1) FOI Refusal Notice does not confirm or deny that Durham Constabulary holds the information that you have requested, and this decision is in no way an indication that the information requested is or is not held by the force.



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Please note that Durham Constabulary's response to your request is unique and should not be used as a comparison with any other Force response you receive.

COMPLAINT RIGHTS

Your attention is drawn to the below link to our website, which details your right to complain:

[Freedom of Information Requests \(contensis.com\)](http://contensis.com)

If you have any further enquiries concerning this matter, please write or contact me on the above telephone number.

I hope this is of assistance to you.

Yours sincerely
Freedom of Information Decision Maker
Information Rights and Disclosure Unit