

Date: 26 January 2024
Our Reference: FOIA-2023-227

RE: Your request for information under the Freedom of Information Act 2000 (FOIA 2000)

I write in response to your Freedom of Information Act 2000 request dated 13 December 2023 in which you requested information relating to the independent external review of Lancashire Constabulary's operational response to reported missing person Nicola Bulley, and specifically in relation to a press briefing that was held prior to the report being published.

When a request for information is made under FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant. If a public authority decides that the information should not be disclosed because an exemption applies, it must, under section 17(1) cite the appropriate section or exemption of the Act and provide an explanation for relying upon it.

It is important to note that a freedom of information request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the legislation, it is then considered public information and must be communicated to any individual should a request be received. In light of this, our responses and disclosures are published on our external website at a later date. This should be borne in mind where a request is made for personal data of named individuals.

Decision

In line with section 1(1) of FOIA 2000, I can confirm that we do hold some of the requested information and where possible that information is to be provided to you. For ease, I have considered each aspect of your request in turn below.

What were the press briefed on? The press were updated on the timing and plans for publication of the report, and details relating to information contained in the final report relating to sonar images.

Is this usual to hold a press briefing prior to publishing a review? No information held. The review was the first that the College of Policing had undertaken. The briefing was held on a non-reportable basis to provide context on information provided to the review in advance of publication. Guidance on the sharing of information is included in the College of Policing's Authorised Professional Practice here [Media relations | College of Policing](#)

Who conducted the briefing? The briefing was held by the College of Policing and undertaken by the Head of Communications and Engagement.

What involvement did the college of policing have in the whole operation prior to the request for a review? I have undertaken reasonable searches for the information requested and can confirm that there is no information held.

What is the college of Police's interpretation / policy of Independent. No information held. You may wish to review the Terms of Reference which can be accessed here lancashire-pcc.gov.uk/wp-content/uploads/2023/05/Terms-of-Reference-Independent-Review.pdf

Please provide the Press briefing presentation. The briefing included the sharing of two slides of images on the screen to supplement the verbal briefing. These were shared on a strictly non-reportable basis. These images are being withheld as we consider that the exemption under section 38 of FOIA 2000 is engaged. A full explanation of our reliance on this exemption can be found below in **Appendix A**.

I trust this letter answers your questions. Your rights are provided in **Appendix B**.

Yours faithfully

Legal and Compliance Team
College of Policing

Email: FOI@college.police.uk

Website: www.college.police.uk

Appendix A

Section 38 FOIA 2000 states:

(1) Information is exempt information if its disclosure under this Act would, or would be likely to—
(a) endanger the physical or mental health of any individual

This is a qualified exemption and I am required to consider the public interest test. Information can only be withheld by a public authority under a qualified exemption if the public interest in maintaining the exemption outweighs the public interest in disclosure. It is important to note that public interest in this context means the public good rather than what is of interest to the public.

There remains considerable public interest in the investigation and in the findings of the review, and both remain subject to continued public scrutiny. We recognise that there is a strong public interest in openness and transparency, and in providing the public with sufficient information to understand decisions made by public authorities. However this must be balanced with the impact that the disclosure will have on individuals. The review team took great care to strike the right balance between releasing sufficient detail about the images without causing undue distress to Nicola Bulley's family by publishing the images themselves as part of the report. We consider that the appropriate balance was struck and that to release the images under FOI would be likely to cause further upset and distress to Nicola's family.

The images shown in the briefing were shown on a strictly non-reportable basis, and it was requested that no screenshots or photos were taken. We consider there to be an important distinction between an unreportable disclosure to the press, who are regulated, and a disclosure under FOI, which would make the images freely available in perpetuity for public view. Once in the public domain we would not be able to control the circulation or usage of the images. We therefore conclude that the public interest lies in withholding the images.

Appendix B

Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of our original response, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner's Office (ICO)

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, you can contact them by telephone or write to them at the following address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Phone: 0303 123 1113