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**west midlands**  
**police and crime**  
**commissioner**

Public Interest Test

Freedom of Information

**Re: Section 31 (a) and (b): Law Enforcement:**  
**Prejudice to Prevention or Detection of Crime and/or Administration of Justice**

**The Prejudice Test**

In legal terms, the word 'prejudice' is commonly understood to mean harm. This request relates to matters, that are relevant to an ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and a claim for a civil injunction.

Disclosure of the requested information is exempt, because it includes operational policing information, relating to an ongoing police operation and claim for a civil injunction by a third party that would, or would be likely to, prejudice the prevention or detection of crime, enforcement of the law and/or the administration of justice.

The harm that would be caused is real, actual and of substance. There is a causal link, between disclosing the information and the prejudice claimed. It is submitted that, in view of the ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and claim for a civil injunction, that harm would occur, or in the alternative, would be likely to occur.

**Factors Favouring Disclosure**

There might be an interest on the part of the public and/or a public interest, in disclosing information, relating to operational policing of the trade dispute, because of the public concern and interest, arising from the trade dispute.

Releasing information might promote accountability and transparency, good decision making, justice and fair treatment.

It might enable the public to be informed and/or to understand, how the police have approached the operational policing of the trade dispute and have balanced, various relevant considerations, including concerns that have been raised, about the policing of the trade dispute.

**Factors Favouring Non-Disclosure**

Disclosing operational policing information, relating to an ongoing police operation, would, or would be likely to, prejudice the prevention or detection of crime, enforcement of the law and/or the administration of justice.

There is a need for the Chief Constable, to be able to brief the Commissioner and/or the OPCC, concerning operational, strategic and tactical policing decision making, that is the responsibility of the Chief Constable, without that information being disclosed to the public, particularly where that relates to ongoing police operations and an ongoing claim for a civil injunction.

This will ensure that the Chief Constable is able to exercise his independent, objective and impartial judgement, on all matters that relate to operational policing of the trade dispute. In turn, this will ensure

the Chief Constable acts lawfully, appropriately and proportionately, having regard to the rights and freedoms of all concerned, including those directly and indirectly involved in the trade dispute, the general public and the wider public interest.

To enable the Commissioner to discharge his extensive and wide-ranging duties and responsibilities, including holding the Chief Constable and police service to account, on behalf of the public and to ensure, good decision making, integrity, justice and fair treatment, best use of public resources and due regard to the rights and freedoms of all concerned, there is a need to be briefed on operational policing, without that information being disclosed to the public, particularly where that relates to ongoing police operations.

The disclosure of the information requested, will not further the public interest, or add to public understanding, either in relation to the ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and claim for a civil injunction.

### **Public Interest Test**

We have carefully considered the basis of the exemption at Sections 31 (a) and (c), the prejudice test, the factors favouring disclosure, the factors favouring non-disclosure, the Information Commissioner's Office Guidance and all the relevant circumstances, relating to the case and request.

We have weighed the public interest in maintaining the exemption against the public interest in disclosure. We have decided to apply the exemptions at Sections 31 (a) and (c), because the public interest in maintaining the exemption, outweighs the public interest in disclosure, for the following reasons:

This request relates to matters, that are relevant to an ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and claim for a civil injunction. The public interest is in favour of ensuring, that these matters are progressed, whilst remaining between the relevant parties, recognising the importance of preserving and promoting trust and confidence between the relevant parties and the sensitivities relating to the contentious discussions and negotiations between the relevant parties, because this will best serve the prevention of crime and disorder, ensure lawful picketing, promote public health and facilitate negotiations in good faith, with a view to reaching a settlement at the earliest possible opportunity.

The harm that would be caused is real, actual and of substance. There is a causal link, between disclosing the information and the prejudice claimed. It is submitted that, in view of the ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and claim for a civil injunction that harm would occur, or in the alternative, would be likely to occur.

Disclosing operational policing information, relating to an ongoing police operation, would, or would be likely to, prejudice the prevention or detection of crime, enforcement of the law and/or the administration of justice.

There is a need for the Chief Constable, to be able to brief the Commissioner and/or the OPCC, concerning operational, tactical and strategic policing decision making, that is the responsibility of the Chief Constable, without that information being disclosed to the public, particularly where that relates to ongoing police operations, enforcement of the law and an ongoing claim for a civil injunction.

This will ensure that the Chief Constable is able to exercise his independent, objective and impartial judgement, on all matters that relate to operational policing of the trade dispute. In turn, this will ensure the Chief Constable acts lawfully, appropriately and proportionality, having regard to the rights and freedoms of all concerned, including those directly and indirectly involved in the trade dispute, the general public and the wider public interest.

To enable the Commissioner to discharge his extensive and wide-ranging duties and responsibilities, including holding the Chief Constable and police service to account, on behalf of the public and to ensure, good decision making, integrity, impartiality, justice, fair treatment, best use of public resources, engaging with relevant parties to facilitate trust and confidence and to balance the rights and freedoms of all those directly and indirectly involved, there is a need to be briefed on operational policing, without that information being disclosed to the public, particularly where that relates to ongoing police operations.

The disclosure of the information requested, will not further the public interest, or add to public understanding, either in relation to the ongoing trade dispute, ongoing negotiations to settle that trade dispute, ongoing police operations and claim for a civil injunction.

## **Conclusion**

For the reasons that are set out in this Public Interest Test:

We have carefully considered the basis of the exemption at Sections 31 (a) and (c), the prejudice test, the factors favouring disclosure, the factors favouring non-disclosure, the Information Commissioner's Office Guidance and all the relevant circumstances, relating to the case and request.

We have weighed the public interest in maintaining the exemption against the public interest in disclosure. We have decided to apply the exemptions at Sections 31 (a) and (c), because the public interest in maintaining the exemption, outweighs the public interest in disclosure.