

c/o PO BOX 481
Fareham
Hampshire
PO14 9FS

Tel: 02380 478922

Email: npcc.foi.request@npfd�.police.uk

29/11/2023

FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER: 344/2023

Thank you for your request for information regarding PND disclosures, which has now been considered.

Applicant Question:

I wish to file a Freedom of Information Act request for confirmation of whether or not a different police force can access the full record of a Police National Database record uploaded by a different police force, not just a marker placed, but the full record. Please confirm if they can.

Furthermore, I also request confirmation of whether not the different police force that accessed the PND record can then without the authorisation of the original police force that uploaded the record, then disclose the record such as under Common Law Police Disclosure etc, can a disclosure such as this be done without the original police force's authorisation to do so? I am aware that under relevant guidance, the original police force whom uploaded the records to the PND are the original data controller of the data, therefore I am wondering if it would amount to a form of a Section 170 Data Protection Act 2018 breach for a police officer from a different police force to disclose the information without the original data controller's consent.

NPCC Response:

The NPCC does hold recorded information captured by your request and it is provided in full below.

- 1) Whether a user from another force/organisation can access the full record is dependent on
 - a) The DARC level the report is set at.
 - b) The DARC level access the user has.

DARC is Data Access Restriction Code and each report loaded to PND has a DARC level added to it from 1-5 with 5 being the most restricted.

Each PND user is given a level of DARC access to what they can see between 3 and 5 with 5 being the highest level. They cannot view a record that has a higher DARC level than their access level.

- 2) There should be a presumption that all relevant information will be shared or disclosed unless there is a compelling reason to the contrary. Matters such as public protection must not be put at risk for the sake of bureaucracy. It can be argued that police are legally obliged to share or disclose details at the earliest opportunity. Where practicable the



'owning' force or agency must be notified of the intention to share or, when necessary, of the fact that it has been shared.

All such decisions to share or disclose must be made in accordance with legislation, such as:

- Crime and Disorder Act (s115) 1998;
- Criminal Justice Act (s325[3]) 2003;
- Sexual Offences Act (s94 & s95) 2003 (Verification of Notification details);
- Children Act 2004;
- Safeguarding Vulnerable Groups Act 2006 (as heavily amended);
- Offender Management Act 2007 (e.g. Polygraph Tests);
- Data Protection Act 1998;
- Human Rights Act 1998;
- Freedom of Information Act 2000;
- Protection of Freedoms Act 2012;
- Care Act 2014; and
- Common Law.
- Data Protection Act 2018

It should also be noted that Memoranda of Understanding (MOU) and Information Sharing Agreements (ISA) can greatly assist in the smooth flow of information between agencies.

Yours sincerely

Fiona Greenlees

NPCC Freedom of Information Officer & Decision Maker

www.npcc.police.uk

COMPLAINT RIGHTS

Internal Review

If you are dissatisfied with the response you have been provided with, in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 20 working days of the date of this response. The handling of your request will be looked at by someone independent of the original decision, and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.

If, after lodging a complaint with NPCC, you are still unhappy with the outcome, you may make an application to the Information Commissioner at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Annex A

Legislation – Section 16

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.