

From: [NPCC CRU Mailbox](#)
To: ["West Midlands"](#)
Subject: Log No.2017/16 CRU Circulation (20/12/2016) - S.40(2) - Darren Cooper - Including Advice
Date: 23 December 2016 10:28:21
Attachments: [image001.png](#)

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Dear Sue,

The following FOI request has been logged in the CRU. **Advice is at the end of the message.**

Log Number: 002017/16

Case worker: S.40(2)

Logged with: West Midlands Police

Sent from: S.40(2)

Could you please treat the questions below as a formal request for disclosure under the Freedom of Information Act 2000 ("FoI")?

- a) Did officers interview the late Sandwell MBC leader Darren Cooper? If so, please describe the allegation(s) in the case of each interview*
- b) In each case, was Mr Cooper formally interviewed as a suspect or did he give a formal statement as a witness or was he spoken to instead?*
- c) When did officers receive the allegations in each case, when did they start to investigate the allegations and when did they end them?*
- d) How many other formal statements did officers take from witnesses in connection with each different set of allegations?*
- e) How many times was Mr Cooper interviewed and how long did each interview last?*
- f) Which of those interviews were on a voluntary basis?*
- g) Were any other suspects formally interviewed in connection with the same allegations? If so, how many and when?*
- h) Did the force make Sandwell MBC aware in each instance it was interviewing/had interviewed Mr Cooper and on what basis or not?*

Mr Cooper has died so I do not believe the Data Protection Act applies.

There is a strong public interest in these questions as councillors under Mr Cooper's leadership and in his ruling cabinet faced accusations connected to alleged irregularities in the sale of former Sandwell Council properties in October 2014.

I believe the public interest in disclosing the requested information outweighs that in maintaining the Section 30 (1) (b) Investigations exemption.

While I appreciate West Midlands Police may not routinely release information about ongoing investigations after FOI requests, I believe this specific request and the merits of the public interest in the inquiry justify a different response.

Mr Cooper previously led a council including in his ruling cabinet Councillors Mahboob Hussain and Ian Jones, about whom allegations were made (which they denied). There is a public interest in checking if police asked Mr Cooper what he knew about those allegations as a public figure himself who worked closely with and led a cabinet including those two aforementioned councillors.

There is a legitimate public interest in establishing whether the public's democratically-elected representatives are properly investigated without fear or favour by police when allegations arise, to aid public confidence in the force. This argument gains weight because the blog that first raised allegations about these land sales has repeatedly claimed a senior Sandwell councillor is a police informant. There is a public interest in publicly illustrating no councillor enjoys special treatment from police.

Please bear in mind a senior QC, James Goudie, also concluded it was in the public interest to publish allegations and details of the Maxwellisation process involving Councillors Mahboob Hussain, Ian Jones, Azeem Hafeez and other council officers: <http://www.bbc.co.uk/news/uk-england-birmingham-36303116> and the council itself placed those reports into the public domain after a ruling in the High Court: <http://www.sandwell.gov.uk/reports>.

The Ministry of Justice has stated (<http://webarchive.nationalarchives.gov.uk/20150730125042/http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-exemption-s30.pdf>) that the following factors may contribute to the balancing test - the extent to which either disclosing or withholding information would:

i promote or diminish the chances of a successful prosecution, bringing future charges, or making arrests

¿ promote or diminish the chances of a fair trial taking place

¿ be fair, in cases where decisions have been taken not to proceed, to those who have not been prosecuted

¿ assist or hamper the gathering of intelligence information from confidential sources (for instance, informants/whistleblowers/calls to Crimestoppers)

¿ further the interests of justice in the participation of victims, witnesses, informants, suspects or offenders in investigations and proceedings ¿ and either protect or endanger them as they do so

¿ assist or impede other ongoing or future proceedings

Given that this inquiry comes after West Midlands Police Inspector Jonathan Jones gave a public statement that after a "thorough" investigation there was insufficient evidence to bring charges, I believe the release of information about this investigation is justified to prove that no stone was left unturned before that decision was taken <http://www.bbc.co.uk/news/uk-england-birmingham-35813960> . It would also be fairer to Mr Cooper to reveal if he was interviewed and if it was the case he cooperated with police ¿ and it was still decided there was insufficient evidence.

Likewise if police feel that revealing these details might encourage the participation of others in an investigation that otherwise appears closed and which would aid the search for the truth and the interests of justice, that would be the fairest course of action.

If the force cannot answer all of my questions, please call me to discuss what information it could supply at the earliest opportunity on S.40(2)

If I am mistaken and the information requested is already in the public domain, please direct me to where I can find it.

If it is not, and you feel you cannot provide all of this information, please provide what information you can in the spirit of Section 16 of FoI, 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¿.

Please send me the information by email. Please provide me with a summary of the information I have requested.

Back ground:

From the information available in the public domain (see below web links) it is our understanding that Police launched an investigation in 2014 into the sale of Sandwell council properties as it appeared they were being sold at less than market value to friends and family of the Deputy Council leader S.40(2) who at the time was also Chairman of the asset Management and land disposal committee. Although there is information in the public domain regarding the involvement of S.40(2) (who was subsequently arrested) in relation to the investigation, there is no mention of Darren Cooper other than the fact he commissioned a report into the allegations when police launched their investigation. We are of the understanding that the investigation has now been concluded and no charges were made due to insufficient evidence.

<http://www.bbc.co.uk/news/uk-england-birmingham-29560614>

http://www.halesowennews.co.uk/news/11538274.Sandwell_Council_in_crisis_Police_investigating_allegations_of_corrupt_land_deals/

http://www.halesowennews.co.uk/news/14501509.Top_council_officer_bullied_in_dodgy_land_deals_report_reveals/

<http://www.expressandstar.com/news/2015/11/15/sandwell-council-land-deals-probe-councillors-son-welcomes-police-decision-to-drop-charge/>

Advice:

Although the subject of this request Darren Cooper is now deceased, we are of the opinion that confirming or denying he has been involved in an investigation could still be harmful. Although there is information in the public domain regarding an investigation launched by Police into the sale of Sandwell Council properties, the only mention of Darren Cooper is in relation to his role as the Sandwell Council leader and his commission of a report into the allegations.

Although from reading all the information provided by the applicant with the request we can assume he would like to know if Darren Cooper was interviewed specifically in relation to the Sandwell council property sale investigation, as the wording of the questions is ambiguous, technically any record of Darren Cooper having ever been interviewed by the police for any reason, would be captured by this request and therefore we are of the opinion that the response in relation to the request needs to be a neither confirm nor deny (NCND) stance by virtue of S30(3), S31(3) and possibly s38(2). To further support this stance, information regarding interviewees/witnesses would not be divulged by the police as such information would have been obtained by the police for the purposes of investigation and disclosure would not only undermine the investigation but could also discourage witnesses for other offences from coming forward out of fear that their details will also be disclosed.

Despite the appearance that the request solely relates to the deceased Darren Cooper, the truth is that the requested information actually relates to a police investigation and although that investigation has been concluded for the time being, if further evidence was to come to light

in the future, the investigation would be re-opened and therefore it is still possible that harm could be caused by the investigation being undermined.

If you require any further advice or assistance, please contact the CRU.

Kind regards

S.40(2)

FOI National Referral Officer

National Police FOI & DP Central Referral Unit

National Police Chiefs' Council

T. **S.31(1)**

A. c/o ACRO, PO BOX 481, PO14 9FS

E. **S.31(1)**

W. www.npcc.police.uk

For out of hours press enquiries please call **S.31(1)**

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