



The Public Interest Test

What to do and how to do it – A practical guide

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Steps to success:



Start with the harm.



Identify the exemption(s).



Assess the reasons for and against disclosure.



Document your decision.

Please provide me with a copy of your Absence Management policy?

Please tell me how many Electric Vehicle chargers were installed last year?

What's the Harm?

How many people have responsibility for processing FOI requests?

How many of your buildings have sprinkler systems?

Please provide a copy of the significant incident case review, and actions plan, relating to [INSERT]?

What type of weapons, and how many, are issued to an Armed Response Unit?

What's the Harm?

Copies of statements taken in relation to X disciplinary investigation?

Please provide me with a detailed floor plan of your A&E department?

What's the harm?

Significant Incident Review	Armed Response Unit	Statements	A&E Floor Plan
People are going to be worried.	Tells the bad guys how many guns the good guys have got... The bad guys will get more guns...	Individuals will be identified.	Enables terrorists to plan attacks.
People are going to make lots of enquiries which will need to be dealt with.	The good guys will need to buy for more guns...	Would breach Article 8 – Right to Privacy	Tells people where the drugs are stored so they can steal them.
Individuals will be identified.		People would stop engaging in the investigation process.	Would necessitate change in security response to prevent either of the above.
People will stop engaging in the investigation process.			
Reputational nightmare!			

Does the harm match an exemption?

Significant Incident Review	Armed Response Unit	Statements	A&E Floor Plan
People are going to be worried. S.39 Health, safety & the environment	Tells the bad guys how many guns the good guys have got... The bad guys will get more guns... S.35 Law enforcement S.39 Health, safety & the environment	Individuals will be identified. S. 38 Personal information	Enables terrorists to plan attacks. S.35 Law enforcement S.39 Health, safety & the environment
People are going to make lots of enquiries which will need to be dealt with. S.30 Effective conduct of public affairs	The good guys will need to buy for more guns... S.30 Effective conduct of public affairs	Would breach Article 8 – Right to Privacy S.26 Prohibitions on disclosure	Tells people where the drugs are stored so they can steal them. S.35 Law enforcement S.30 Effective conduct of public affairs
Individuals will be identified. S. 38 Personal information		People would stop engaging in the investigation process. S.30 Effective conduct of public affairs	Would necessitate change in security response to prevent either of the above. S.30 Effective conduct of public affairs
People would stop engaging in the investigation process. S.30 Effective conduct of public affairs		Would undermine the HR investigation process. S.30 Effective conduct of public affairs	
Reputational nightmare!			

Consider the arguments: Significant Incident Review

- There is always a presumption in favour of disclosure
- Disclosure will always help the public understand what is happening / what has gone wrong.
- Disclosure will always help the public scrutinise the steps being taken to put things right.
- Disclosure might prevent people worrying about things they don't need to be worried about?
- Organisation will breach data protection legislation as individuals will be identified.
- People involved in the investigation may be targeted / be worried about being targeted?
- People will stop engaging in similar investigations meaning organisation less able to learn lessons.
- Public services could be compromised if staff required to deal with worried members of the public.
- Is there an alternative mechanism which could meet the public interest?

Assess likelihood and impact... Context is key!



Document your decision

Write a decision log which includes:

- The harm identified by disclosure.
- Relevant background / context to your assessment.
- The reasons in favour of disclosure.
- The reasons in favour exemption(s).
- Your decision.

Tips

- Tackle multiple exemptions separately.
- If you cannot convince yourself, you will not convince the applicant.
- Write your decision log for the Commissioner: include the detail the Case Officer will need to understand your approach.