

15 August 2024

FOI Ref 16765

Request - You asked us the following:

I'd like to see all (or some of if there isn't time to give all) of the legal advice that the force has received in the last 5 years (or less if there isn't time) concerning what makes an arrest legal or illegal.

We received your request on 15/04/2024 and have processed this under the Freedom of Information Act (FOIA).

Please find below our response.

Staffordshire Police holds the following requested information.

- I'd like to see all (or some of if there isn't time to give all) of the legal advice that the force has received in the last 5 years (or less if there isn't time) concerning what makes an arrest legal or illegal. – **Information held.**

Staffordshire Police discloses/withholds the following information.

- I'd like to see all (or some of if there isn't time to give all) of the legal advice that the force has received in the last 5 years (or less if there isn't time) concerning what makes an arrest legal or illegal. – **Withheld.**

The above information has been withheld for the following reasons:

Legal professional privilege covers any advice given by legal advisers, solicitors and barristers. This exemption can be applied to communication with external lawyers and with legal advisers from public authorities, including those internal to Staffordshire Police. In certain circumstances, third party communications may also fall within the scope of the exemption - for example, advice sought from an expert for the purposes of litigation.

The following exemptions have been applied:

- **Section 42(1) Legal Professional Privilege**
Information in respect of which a claim to legal professional privilege, or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.



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Section 42 is qualified and class-based and, as such, we are required to evidence the harm in disclosure and apply the public interest test.

Public Interest Test

Factors favouring disclosure under Section 42 (1)

Disclosure of the information would improve the public's knowledge and understanding of the force's legal processes, promoting openness and transparency. It would also allow the public to further understand Staffordshire Police's processes in decision making.

Factors favouring non-disclosure under Section 42 (1)

It is recognised that the concept of Legal Professional Privilege (LPP) reflects the strong public interest in protecting the confidentiality of communications between lawyers and their clients. Disclosure of such information would go against the principles behind the concept of legal professional privilege, and the rationale behind the concept, i.e. ensuring frankness between legal professionals and Staffordshire Police which goes to serve the wider administration of justice.

Balance Test

Disclosure under the Freedom of Information Act is a release of information to the world in general and not an individual applicant. Having considered the public interest factors we are required to determine whether on balance the factors favouring disclosure outweigh those which are against disclosure. In order to safeguard openness in all communications between ourselves and legal advisors to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice, it is our view that the factors favouring disclosure do not outweigh those which favour non-disclosure.

Next steps

You can ask us to review our response.

If you would like us to carry out a review of our response, please let us know within two months of the date of receipt of this email, review requests should be addressed to:

foi@staffordshire.police.uk

Or by Post to:

Central Disclosure Unit
Staffordshire Police HQ
PO Box 3167



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Stafford
ST16 9JZ

Please remember to quote the reference number in any future communications.

Freedom of Information
Central Disclosure Unit