

Freedom of Information Request Reference No:

I respond in connection with your request for information which was received by the Metropolitan Police Service (MPS) on 02/08/2011. I note you seek access to the following information:

Re: Freedom of Information Act 2000 Questions - Madeleine McCann Review Team  
Please answer the following questions in relation to the Madeleine McCann Review Team:

1. What is the precise remit of the Review Team?
2. When was that remit agreed?
3. Who decided the remit?
4. When completed, to whom will the Review Report be presented?
5. On 14 May 2011, the Daily Telegraph said that "Scotland Yard's new investigation is being overseen by Commander Simon Foy, one of the force's most experienced detectives". Please either confirm that, or provide information as to who is in overall command of this Review.
6. On 15 May 2011, the Daily Record said that " Scotland Yard said Detective Chief Inspector Andy Redwood, from the Homicide and Serious Crime Command, would be the senior investigating officer in the case". Please either confirm that, or provide information as to who is the senior investigating officer in the case.
7. On 15 May 2011, the Independent on Sunday said that "Mr. Redwood will report to Detective Chief Superintendent Hamish Campbell, Homicide and Serious Crimes Command (HSCC), operational command unit commander." Please either confirm that, or provide information as to who is the person in overall charge of the HSCC".
8. On 20 and 22 July 2011, an officer from the Intelligence Section of the Madeleine McCann Team, Sam, Pay No. 220629, stated that the policy of the Team was not to answer any correspondence. Please state whether or not this is the case.
9. Please state whether, if evidence or other information is sent to the Madeleine McCann Review Team, any acknowledgement of the receipt of that information will be given.
10. Does the Madeleine McCann Review Team have a deadline for completing its review? If so, when is it?
11. Does the Madeleine McCann Review Team have a budget? If so, what is it? Do the funds allocated to this Review Team come from the Home Office or from the Metropolitan Police Authority?

Following receipt of your request searches were conducted within the MPS to locate information relevant to your request.

#### **EXTENT OF SEARCHES TO LOCATE INFORMATION**

To locate the information relevant to your request searches were conducted within the Specialist Crime Directorate - Homicide and Serious Crime Command.

## **RESULT OF SEARCHES**

The searches located information relevant to your request.

## **DECISION**

I have today decided to:

Answer questions 5, 6, 7, 10 and 11 in full

To refuse questions 8 and 9 by virtue of section 8 of the Freedom of Information Act 2000 (The Act) as an invalid request.

To exempt questions 1, 2, 3 and 4 by virtue of section 30 (1)(a)(b)(c) and section 31(1)(a)(b)(c) of the Act.

**Please see the legal annex for the sections of the Act referred to in this email.**

## **REASONS FOR DECISION**

**The following questions have been responded to in full:**

**At question 5 you asked:** On 14 May 2011, the Daily Telegraph said that "Scotland Yard's new investigation is being overseen by Commander Simon Foy, one of the force's most experienced detectives". Please either confirm that, or provide information as to who is in overall command of this Review.

**At Question 6 you asked:** On 15 May 2011, the Daily Record said that "Scotland Yard said Detective Chief Inspector Andy Redwood, from the Homicide and Serious Crime Command, would be the senior investigating officer in the case". Please either confirm that, or provide information as to who is the senior investigating officer in the case.

**At question 7 you asked:** On 15 May 2011, the Independent on Sunday said that "Mr. Redwood will report to Detective Chief Superintendent Hamish Campbell, Homicide and Serious Crimes Command (HSCC), operational command unit commander." Please either confirm that, or provide information as to who is the person in overall charge of the HSCC".

**The MPS response is:** The senior officer with oversight of the review is Commander Simon Foy. Detective Chief Inspector (DCI) Andy Redwood is the Senior Investigating Officer. DCI Redwood reports to Detective Chief Superintendent Hamish Campbell.

**At question 10 you asked:** Does the Madeleine McCann Review Team have a deadline for completing its review? If so, when is it?

**The MPS response is:** The review team does not have a deadline for the completion of its review.

**At question 11 you asked:** Does the Madeleine McCann Review Team have a budget? If so, what is it? Do the funds allocated to this Review Team come from the Home Office or from the Metropolitan Police Authority?

**The MPS response is:** The MPS has allocated a team to deal with this and the Home Office have agreed to reimburse this cost. This is reviewed on a quarterly basis.

**The following questions have been refused on the grounds that they do not constitute a valid request under the Act:**

**At question 8 you asked:** On 20 and 22 July 2011, an officer from the Intelligence Section of the Madeleine McCann Team, Sam, Pay No. 220629, stated that the policy of the Team was not to answer any correspondence. Please state whether or not this is the case.

**At question 9 you asked:** Please state whether, if evidence or other information is sent to the Madeleine McCann Review Team, any acknowledgement of the receipt of that information will be given.

**The MPS response is:** I have decided to refuse access to the information you have requested under the provisions of Section 8(2)(a)(b)(c) of the Act.

A request under the Act is required by statute to be legible and capable of being used for subsequent reference. After careful consideration, I have decided that your request does not meet this requirement as I am unable to ascertain what recorded information you have requested, as defined by Section 8(2)(c).

To enable us to meet your request could you please resubmit your application in accordance with the above requirements. If for any reason you are unable to do so, please contact me for assistance or seek assistance from any other available source.

I attach an excerpt from the Information Commissioner's website which may assist you in composing any future Freedom of Information requests.

**What can I request under the Freedom of Information Act?**

You have the right to request any information held by public authorities. The Act allows access to recorded information, such as emails, meeting minutes, research or reports held by public authorities in England, Northern Ireland and Wales and some authorities located in Scotland.

You have not made a request for recorded information which may be held by the MPS but questions which require a confirmation of a statement. You will need to be specific as to the recorded information you require.

We will consider your resubmitted request upon receipt as long as it meets the requirements stated above. You will receive the information requested within the statutory timescale of 20 working days as defined by the Act, subject to the information not being exempt.

**The following questions are exempt by virtue of Section 30 (1)(a)(b)(c) and Section 31(1)(a)(b)(c) of the Act:**

**Please see the legal annex for the sections of the Act referred to in this email.**

**At question 1 you asked:** What is the precise remit of the Review Team?

**At question 2 you asked:** When was that remit agreed?

**At question 3 you asked:** Who decided the remit?

**At question 4 you asked:** When completed, to whom will the Review Report be presented?

**The MPS response is:** This information is exempt by virtue of Section 30(1)(a)(b)(c) and Section 31(1)(a)(b)(c) of the Act

**Constituents of this information attract Section 30 and other constituents attract Section 31 of the Act. It should not be surmised that we are applying Sections 30 & 31 to the same pieces of information.**

Under Section 30(1)(a)(i)(ii)(b)(c) of the Act, Public Authorities are able to withhold information if it was obtained or recorded for the purposes of investigations, criminal proceedings or civil proceedings. In this case the information requested relates to an ongoing review. Disclosing specific details of a review could potentially impact and undermine any current or future reviews. This exemption can be applied after evidencing the Harm, which could be caused by its release and following completion of a Public Interest Test(PIT). The purpose of the PIT is to establish whether the 'Public Interest' lies in disclosing or withholding the requested information.

Under Section 31(1) (a) (b) (c) of the Act Public Authorities are able to withhold information where its release could compromise Law Enforcement. In this case the information requested relates to an ongoing review. Disclosing specific details of a review could potentially impact and undermine any current or future criminal and /or civil proceedings. This exemption can be applied after evidencing the Harm, which could be caused by its release and following completion of a Public Interest Test (PIT). The

purpose of the PIT is to establish whether the 'Public Interest' lies in disclosing or withholding the requested information.

This email serves as a Refusal Notice under Section 17 of the Act.

## **REASONS FOR DECISION**

Before I explain the reasons for the decisions I have made in relation to your request, I thought that it would be helpful if I outline the parameters set out by the Act within which a request for information can be answered.

The Act creates a statutory right of access to information held by public authorities. A public authority in receipt of a request must, if permitted, confirm if the requested information is held by that public authority and, if so, then communicate that information to the applicant.

The right of access to information is not without exception and is subject to a number of exemptions which are designed to enable public authorities to withhold information that is not suitable for release. Importantly, the Act is designed to place information into the public domain, that is, once access to information is granted to one person under the Act, it is then considered public information and must be communicated to any individual should a request be received.

I have considered your request for information within the provisions set out by the Act . I have addressed your request in order to both confirm if the requested information is held by the MPS and then to provide this information to you. Where I have been unable to provide the requested information to you, I have explained my decision in accordance with Section 17 of the Act.

## **Evidence of Harm**

In considering whether or not this information should be disclosed, I have considered the potential HARM that could be caused by disclosure.

Under the Act, we cannot, and do not request the motives of any applicant for information. We have no doubt the vast majority of applications under the Act are legitimate and do not have any ulterior motives, however, in disclosing information to one applicant we are expressing a willingness to provide it to anyone in the world. This means that a disclosure to a genuinely interested applicant automatically opens it up for a similar disclosure to anyone, including those who might represent a threat to individuals, or any possible criminal and / or civil process.

Information of this nature needs to be treated with extreme sensitivity, as it could have a detrimental effect on a review and the operational effectiveness of the MPS and it's ability to fulfil its core function of law enforcement.

High profile reviews, such as this one, are highly emotive and the manner in which they are conducted are usually kept in strict secrecy so that the tactics and lines of enquiry that are followed do not become public knowledge thereby rendering them useless.

## **Public Interest Test**

### **Public interest considerations favouring disclosure**

Disclosure of this information would enlighten members of the public as to the action taken by the MPS in this investigation. This may go some way to promoting awareness, accountability and would reinforce the MPS's commitment to openness and transparency. Release of this information would assist in any public debate on the MPS's action during this investigation and would demonstrate the willingness of the MPS to be open and transparent with the public showing what procedures are carried out.

### **Public interest considerations favouring non-disclosure**

Information relating to an ongoing review will rarely be disclosed and only where there is a strong public interest consideration favouring disclosure. In this case, release of the requested information could allow individuals to use the information contained in the remit to undermine the methodology and techniques employed by the MPS and impede current / future investigations. Release of the remit and the other details could inform suspects of the progress of the review and allow them to use the information contained in it for criminal activities and to avoid justice.

## **Balancing Test**

After weighing up the competing interests I have determined that the disclosure of the above information would not be in the public interest. I consider that the benefit that would result from the information being disclosed does not outweigh disclosing information relating to your request for information about the remit of The Madeleine McCann Review. The MPS will rarely disclose information relating to an ongoing review as to do so could adversely harm that investigation.

## **Legal Annex**

### **Section 17 of the Act provides:**

(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision in part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which-

- (a) states the fact,
- (b) specifies the exemption in question, and

(c) states (if that would not otherwise be apparent) why the exemption applies.

**Section 8(1)(a)(b)(c)(2)(a)(b)(c) of the Act provides:**

(2) For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request-

- (a) is transmitted by electronic means,
- (b) is received in legible form, and
- (c) is capable of being used for subsequent reference.

**Section 30(1)(a)(b)(c) of the Act provides:**

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of—

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained—

- (i) whether a person should be charged with an offence, or
- (ii) whether a person charged with an offence is guilty of it,

(b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or

(c) any criminal proceedings which the authority has power to conduct.

**Section 31(1)(a)(b)(c) of the Act provides:**

(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice