

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)**

**DECISION NOTICE**

**Dated 24 November 2005**

**Name of Public Authority**                      **Chief Officer of Northamptonshire Police**

**Wootton Hall  
Wootton Park  
Northampton  
Northamptonshire  
NN4 0JQ**

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint that on 4 January 2005 a request was made to the Chief Office of Police of Northamptonshire Police ("Northants Police") for the following information under the Freedom of Information Act 2000 (the "Act"):

Information relating to speeding offences recorded by the speed camera located at Kelmarsh on the A508.

For each offence the following information was requested:

1. Date
2. Time
3. Speed
4. Direction of travel e.g. S for south towards Northampton or N for north towards Kelmarsh.

Initially, Northants Police refused to confirm or deny whether they held this information citing Section 31 (Prejudice to Law Enforcement) as the reason for doing so. The complainant appealed this refusal. This was, in effect, a request for an internal review. Northants Police prepared their response to the request for internal review in a timely manner but, regrettably, neglected to send it to the complainant due to an administrative oversight which went unnoticed until the complainant sought the Commissioner's intervention.

The Commissioner advised Northants Police to send the outcome of their review to the complainant and they did so promptly. In this review, they confirmed that they held the requested information but that it was exempt information under Section 31 (Prejudice to Law Enforcement) and Section 38 (Endangering Health and Safety). They asserted that the public interest in maintaining those exemptions outweighed the public interest in disclosing the requested information.

The complainant alleges that:

In refusing to provide the requested information, Northants Police failed to comply Section 1 (1) of the Act.

### **The Commissioner's Decision**

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner has a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

The Commissioner agrees that both exemptions apply in respect of the requested information and, having considered the information in question, he also agrees with Northants Police's view that the public interest in maintaining both exemptions outweighs the public interest in disclosing the information. Further details are given in the attached Statement of Reasons.

### **Right of Appeal**

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4131
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 24<sup>th</sup> day of November 2005

Signed: .....

Graham Smith  
Deputy Commissioner

Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## STATEMENT OF REASONS

Northants Police asserted that the release of the requested information would prejudice law enforcement (Section 31) would be likely to endanger the health and safety of any individual (Section 38).

Section 31 states that:

“Information which is not exempt information by virtue of Section 30 [information held for the purposes of investigations and proceedings conducted by public authorities] 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, ...”

Section 38 states that:

“Information is exempt information if its disclosure under this Act would, or would be likely to –

- a) endanger the physical or mental health of any individual, or
- b) endanger the safety of any individual. ...”

Both exemptions are qualified exemptions and are subject to a public interest test. Northants Police asserted that the public interest in maintaining both exemptions outweighed the public interest in releasing the requested information about individual cameras. This information is often referred to as “site specific” information.

This statement will first examine whether or not the exemptions apply in this case.

### **Is the release of this information likely to prejudice law enforcement?**

It is widely known that the majority of speed cameras in any given policing area are not activated for enforcement at all times. It is the desire of the police that a driver should assume that the speed camera they are approaching is active. The Commissioner is persuaded that drivers are more inclined to stick rigidly to the speed limit in an enforcement zone if they believe that a camera is active or likely to be active.

The requested information in this case covers almost 4 years of recorded offences. The Commissioner analysed the data and found that it was possible to identify “switch on/switch off” dates for the camera over the period. As such, it would be possible for an unscrupulous driver to estimate, or think they could estimate, likely future enforcement patterns and adjust their driving speed accordingly by a similar analysis of this data. Driving at speeds in excess of the stated speed limit is a criminal offence.

The requested information includes speeds at which offences were recorded. In correspondence with the Commissioner, the complainant recognised that there may be a prejudicial effect in releasing this information because it could

reveal “trigger speeds”, i.e. at what point over the enforced limit this particular camera was likely to be activated. Drivers might choose to drive marginally over the limit assuming that they could evade detection. Even if a driver evades detection, he/she is breaking the law if the stated speed limit is exceeded. Conceding this point, the complainant was willing to exclude recorded speeds from his request.

With regard to the remainder of the information, the Commissioner is satisfied that the exemption under s31 nevertheless applies because he is persuaded that the release of this information may lead less scrupulous drivers to risk exceeding the speed limit at this particular site in contravention of the law. They might take this risk because they could predict, or would believe they could predict, when the camera is more likely to be activated.

**Is the release of this information likely to prejudice the health and safety of any individual?**

If, after analysing the requested information, a driver chooses to drive in excess of the speed limit, is there, as a consequence, likely prejudice to the health and safety of any individual? The Commissioner acknowledges arguments that have been put forward which suggest that factors other than speeding are major contributing factors to road traffic accidents, e.g. driving under the influence of drugs or alcohol. However, he is satisfied that speeding is also a factor which is likely to contribute to road accidents and is not persuaded that the risk is insignificant. He notes that there are strict guidelines for site selection for permanent speed cameras. For example, a camera can only be installed at a known accident blackspot. The combination of these two factors, speed (in excess the stated limit) and location (a known accident blackspot) persuades the Commissioner that the s38 exemption applies. In other words, the Commissioner is satisfied that the release of this information would be likely to result in increased accident numbers where drivers, making use of the requested information, risk speeding at a known accident blackspot.

Having agreed that both exemptions apply, the Commissioner then considered whether the public interest in maintaining one or both of those exemptions, outweighed the public interest in releasing the requested information.

**The Public Interest Test**

The Commissioner believes that the increased likelihood of risk to the health and safety of any individual is, of itself, a powerful public interest argument against disclosure, as is the increased likelihood that the criminal law would be broken as an indirect consequence of the release of the requested information.

The Commissioner recognises that the police do not keep speed cameras on permanently because they believe that the potential risk of enforcement is as strong a deterrent as the certainty of enforcement. There are strong public

interest arguments in supporting this policy. Chief among these is greater value for money. Administration of traffic enforcement is much cheaper using intermittent rather than permanent enforcement zones because fewer penalty notices are actually issued (each requiring administrative work). It is also encourages voluntary compliance with the law which makes the work of the police in this area much easier and allows them to focus resources where there is greater need.

The complainant focussed on the adequacy of signage for speed cameras in general and on this stretch of road in particular. The speed camera in this case is a "Truvelo" camera rather than the more familiar "Gatso" cameras. A Truvelo camera is positioned to photograph oncoming traffic. The enforcement zone for each direction of traffic is set before the driver approaches the camera rather than after the driver reaches the camera as is the case with a Gatso. Those drivers who only adjust their speed down to the speed limit once they see a camera are more likely to be caught by Truvelo cameras because it is likely that they will have already entered the enforcement zone by the time they see that camera. Adequate signage is therefore particularly important. Truvelo cameras are widely used in Northamptonshire but less so in other parts of the country.

Northants Police assured the Commissioner that the warning signage for this camera was within the requirements laid down by the Department for Transport ("DfT"). These are specified in The Traffic Sign Regulations and General Directions 2002 Statutory Instrument No. 3113 and outlined in the Handbook of Rules and Guidance for the National Safety Camera Programme for England and Wales

[http://www.dft.gov.uk/stellent/groups/dft\\_rdsafety/documents/page/dft\\_rdsafety\\_032652.pdf](http://www.dft.gov.uk/stellent/groups/dft_rdsafety/documents/page/dft_rdsafety_032652.pdf)

However, the Commissioner recognised that there was an ongoing debate about the adequacy of signage for speed cameras, particularly for the less familiar Truvelo cameras and other innovations. If the requested information could inform that debate, the Commissioner acknowledged that this would add weight to the public interest argument in favour of disclosure.

The Commissioner examined a road map of the Kelmarsh area using an online map as well as photographs supplied by the complainant. He also sought comments from Northants Police.

<http://www.multimap.com/map/browse.cgi?client=public&X=472500.864246765&Y=280000.390257685&width=500&height=300&gride=473382.864246765&gridn=279254.390257685&src=0&coordsys=gb&db=freegaz&addr1=&addr2=&addr3=&pc=&advanced=&local=&localinfosel=&kw=&inmap=&table=&ovt ype=&zm=0&scale=50000&in.x=8&in.y=14>

The complainant believes that prevailing light conditions in the morning might affect a driver's ability to notice the first of the requisite signs indicating the speed limit on the A508 where that driver joined the northbound carriageway of the A508 from the A14. The speed limit had been reduced to 40mph on this stretch of the A508 because of a high accident rate. The complainant commented that many drivers, unfamiliar with the area, might assume at first that the national speed limit of 60 mph would apply because this stretch of

road was not in a built-up area. If such drivers are not adequately forewarned when joining the A508 northbound at this point they may drive at what they believe is a safe speed well within the national limit unaware that the speed limit had been significantly lowered.

The sliproad off the A14 runs up an incline. When it meets the A508 it points more or less due east. There is a 40mph speed limit sign at that junction to warn drivers of the speed limit in place on the road they are about to join. A driver travelling up that sliproad in the morning could face strong sunlight from the east at the top of the incline. A normal driver reaction would be to lower one's visor while driving up the incline. However, according to the complainant, this action might inadvertently block a driver's view of the speed limit sign at the top of the incline. Turning left onto the northbound carriageway, that driver would pass only one further and smaller sign before entering the enforcement zone. If the requested information were to reveal that more offences were recorded in the morning, this might suggest that even where signage was well within DfT guidelines, such guidelines were not adequate for this site or at similar sites. The complainant sought to combine the requested information with historical weather reports in order to analyse whether strong morning sunlight was a significant factor in enforcement numbers.

On examining the requesting information, the Commissioner noted that it was impossible to determine whether or not a northbound offender had joined the A508 from the A14. Only drivers that joined the A508 from the A14 could potentially be affected bright morning sunlight in the manner described above. For drivers already on the A508, the morning sun would be to their right rather than straight ahead. While the complainant acknowledged this point, he argued that most drivers already on the A508 would be local drivers and would be aware of the reduced speed limit. He added that non-local drivers already on the A508 would also be more adequately warned than drivers joining the A508 from the A14 because there was extensive signage leading up to the A14 junction. As such, the complainant argued, those caught by the speed camera in the morning on days where there was strong morning sunlight were more likely to be those drivers who had joined the A508 northbound at the A14 and inadvertently exceeded the speed limit because they were insufficiently warned. The complainant concluded that offending drivers who had already been on the A508 would not add a significant variable to the figures. While accepting that this counter argument may have some merit, the Commissioner could not ignore the variable factor that he had identified. He believes that this variable would undermine the value of any analysis of the requested information seeking to clarify the impact of strong morning sunlight on offender numbers. If no conclusive analysis of the requested information could be conducted in order to establish whether or not strong morning sunlight undermined the effectiveness of speed limit signage, no significant weight could be added to the public interest argument in favour of disclosing it. Given the strong public interest in avoiding prejudice to law enforcement and in avoiding risk to life and limb, the Commissioner was not persuaded that the public interest would be best served by the release of this information.

## Summary of Decision

While the Commissioner recognises that there is a public interest in informing the debate about adequacy of signage for speed cameras, he does not believe that the release of the requested information would inform that debate. He believes that there is a stronger public interest in avoiding the likely increased risk to the health and safety of any individual and the likely increase of non-compliance with road traffic laws. The Commissioner is also persuaded that the release of the requested information would undermine Northants Police's policy of intermittent activation of speed cameras. This policy is based on the premise that the risk of enforcement is as strong a deterrent as the certainty of enforcement. This policy is more cost effective than permanent activation of speed cameras because less speeding fines are issued and less administrative costs incurred.