

**Force Disclosure Unit**

Wiltshire Police HQ

London Road

Devizes

Wiltshire

SN10 2DN

Tel 101 ext. 62005

www.wiltshire.police.ukdisclosure@wiltshire.pnn.police.uk

XXXXXXXXXX

By email

Date: 4th March 2021

Your ref: FOI

Our ref: FOI 2021/194

Reply contact name is: Abigail Standidge

Dear XXXXX,

I write in connection with your request for information dated 3rd March 2021 concerning a report of an alleged offence of interfering with a badger sett.

I am required by the Freedom of Information Act 2000 to handle all requests in a manner that is blind as to the identity and motives of the requestor. Any information released as a response to a request is regarded as being published and therefore in the public domain without caveat.

Your request for information has now been considered and I am not obliged to supply the information you have requested.

You wrote:

With reference to Wiltshire Police Log number XXXXXXXXX.

Please could you provide details of the police report including why the contractor, who was reported to the police as suspected of undertaking a criminal offence of interfering with a badger sett including Intentionally or recklessly damage or destroy a badger sett, or obstruct access to it and/or Disturbing a badger when it is occupying a sett, Under the Protection of Badgers Act 1992 was allowed to carry on, and who employed him.

Our response:

Under the Freedom of Information Act 2000 (FOIA), this request is exempt by virtue of the following exemptions:

Section 30(1) - Investigations

Section 40(2) - Personal data

Section 30 is a qualified exemption and therefore requires the harm in disclosing this information, along with a Public Interest test, to be articulated.

Section 40 is an absolute exemption and therefore there is no requirement to articulate the harm or conduct a Public Interest test.



Information which constitutes personal data is exempt under Section 40(2) of the FOIA if it relates to a third party, and the disclosure to the public would contravene the data protection principles set out in Section 34 of the Data Protection Act 2018 and Article 5 of the GDPR. In this circumstance:-

- Providing details of the occurrence report would be providing information about the individual who reported the incident, and other individuals who may be involved in the occurrence; and thus, by virtue of Section 40 (Personal Data), any information is exempt from disclosure.

To note, where an individual is requesting third party personal data Wiltshire Police must ensure that any action taken adheres to the principles of the DPA 2018 and the GDPR. To clarify, the FOIA only allows disclosure of personal data if that disclosure would be compliant with the principles for processing personal data. These principles are outlined under Section 34 of the DPA 2018 and under Article 5 of the GDPR.

Section 30(1) – Investigations

Overall harm in disclosure

Release of information under the Freedom of Information Act is effectively a disclosure to the world, not just to the individual making the request. A disclosure of the information requested, if not already contained within the public domain, would likely prejudice any ongoing or future investigations which may be linked to (or similar to) the information which has been requested. This would likely result in offenders escaping justice and jeopardise Wiltshire Police's ability to prevent and investigate crime, and to protect the public.

Public Interest considerations

Factors favouring disclosure

Police investigations are publicly funded, and therefore the public has the right to know where the funding and resources for Wiltshire Police are being spent. Disclosure would show Wiltshire Police as being open and transparent with the public, and would allow the public to scrutinise the way crimes are investigated within our Force area. Additionally, the disclosure would ensure the public are reassured that all lines of enquiry are investigated.

Factors against disclosure

If a disclosure was made, which related to an ongoing investigation, Wiltshire Police would be seen as not taking seriously the responsibility of appropriately handling and managing investigations. This could lead to existing or planned investigations being compromised. In turn, victims or potential victims may be reluctant in engaging with the Force, and could therefore seriously undermine the prevention and detection of crime.

Balance test

Wiltshire Police are charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Whilst there is a public interest in the transparency of policing operations and providing assurance that our Force is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding the integrity of Police investigations. The effective delivery of operational law enforcement takes priority and is at the forefront of Wiltshire Police to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained.

For the reasons outlined above, the Public Interest lies in favour of non-disclosure of the information which has been requested.

Section 17 of the Freedom of Information Act 2000 requires the Constabulary, when refusing to provide information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

Exemptions applied:

Section 30(1) - Investigations

Section 40(2) - Personal Information

In accordance with Section 17 of the Act, this letter represents a Refusal Notice for this particular request.

I am satisfied that all the relevant information has been passed to me and been considered in the light of your request within the time constraints applicable under the legislation.

Wiltshire Police would like to thank you for the interest that you have shown in the Force.

Yours sincerely,

Abigail Standidge
Force Disclosure Decision Maker

Wiltshire Police offers a re-examination of your case under its review procedure.



Force Disclosure Unit

Wiltshire Police HQ, London Road, Devizes, Wiltshire SN10 2DN
Telephone 101 ext 62005

Freedom of Information Request Appeals Procedure

1. Who Can Ask for a Review

Any person who has requested information from Wiltshire Police, which has been dealt with under the Freedom of Information Act, is entitled to complain and request an internal review, if they are dissatisfied with the response they received.

2. How to Request a Review

Requests for review of a Freedom of Information request must be made in writing to the:

Force Disclosure Unit
Wiltshire Police Headquarters,
London Road, Devizes,
Wiltshire,
SN10 2DN

Email at disclosure@wiltshire.pnn.police.uk.

The reference number, date of the request and details of why the review is being requested must be included. Requests for review should be brought to the attention of the Force Disclosure Unit within 20 working days of the Force's response to the original FoI request.

3. Review Procedure

Receipt of a request for review will be acknowledged in writing to include confirmation of the reasons for the review. The review will be conducted by another Decision Maker, who is independent from the original Decision Maker. The Force Disclosure Unit will set a target date for a response. The response will be made as soon as is practicable with the intention to complete the review within twenty working days. In more complex cases the review may take up to 40 working days.

The Independent Decision Maker will conduct a review of the handling of the request for information and of decisions taken, including decisions taken about where the public interest lies in respect of exempt information where applicable. The review enables a re-evaluation of the case, taking into account the matters raised by the complaint.

4. Conclusion of the Appeal

On completion of the review the Independent Decision Maker will reply to the complainant with the result of the review. If the complainant is still dissatisfied following the review they should contact the Information Commissioner to make an appeal. The Information Commissioner can be contacted via the following details:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545 700
Fax: 01625 524 510
Email: mail@ico.gsi.gov.uk

Please note that the ICO's offices will be closed for the foreseeable future and are therefore unable to receive correspondence via post.

If you should wish to contact them, please visit <https://ico.org.uk/global/contact-us/>