

**Force Disclosure Unit**

Wiltshire Police HQ

London Road

Devizes

Wiltshire

SN10 2DN

Tel 101 ext 62005

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

XXXXXX – by email

Date: 14th May 2021

Your ref: FOI

Our ref: FOI 2021 / 443

Reply contact name is: Nick Penny

Dear XXXXXX,

I write in connection with your request for information dated 13th May 2021 concerning the first names of people charged for specific traffic offences.

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:

The first, given name of people charged by your police force in 2021 and 2020 with:

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with 'stop' sign

TS40 Failing to comply with direction of a constable/warden

TS50 Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)

TS60 Failing to comply with a school crossing patrol sign

TS70 Undefined failure to comply with a traffic direction sign

SP10 Exceeding goods vehicle speed limits

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road



INVESTOR IN PEOPLE

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

PC10 Undefined contravention of pedestrian crossing regulations

PC20 Contravention of pedestrian crossing regulations with moving vehicle

PC30 Contravention of pedestrian crossing regulations with stationary vehicle

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play street offences

MS50 Motor racing on the highway

MS60 Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to identity of driver etc

CU10 Using a vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Breach of requirements as to control of the vehicle, such as using a mobile phone

DD10 Causing serious injury by dangerous driving

DD40 Dangerous driving

DD90 Furious driving

IN10 Using a vehicle uninsured against third party risks

Please omit unique, and therefore, identifying names as to not violate 40(2) or 40(5) of the FoIA (personal information). An undated list of names is perfect. Let me know if you have any further questions or require further clarification.

Our response:

Whilst Wiltshire Police can confirm that the information you are requesting is indeed held, it is exempt by virtue of the following exemption:

Section 40(2) – Personal Information

Section 40 is an absolute exemption and there is no requirement for Wiltshire Police to articulate the harm or examine the public interest in disclosure. Information that constitutes personal data is exempt under section 40(2) of the Freedom of Information Act if it is about a third party and disclosure to the public would contravene the data protection principles set out in Schedule 1 of the Data Protection Act 1998.

Regardless as to what may already be in the public domain from any unofficial source, our consideration on applying this exemption is subject to whether the disclosure of the information requested would lead to identifying individuals and place information pertaining to them into the public domain by Wiltshire Constabulary. This constitutes personal data which would, if released, be in breach of the rights provided by the Data Protection Act 2018 and General Data Protection Regulations; namely the first data protection principle, which states that personal data will be processed *lawfully, fairly and transparently*.

It needs to be noted that where an individual is requesting third party personal data Wiltshire Police must ensure that any action taken adheres to the principles of the Data Protection Act 2018 and the GDPR. To clarify, the Freedom of Information Act 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.

It is my view that the request runs counter to the three requirements prescribed by law and that there is no lawful basis to provide this information. Furthermore, the question of fairness and transparency is not met either as the data subjects in question would have no expectation that their personal data would be provided to the applicant and processed in this way. This is an absolute exemption and no public interest test is required.

In your request you have specifically requested very limited information in the anticipation that disclosure would be made and not exempted. In light of this, please note the following by means of explanation of our rationale in respect of our response :-

- a) Should you have suspicions that someone you know might have received a charge or conviction for one of these named offences, should their first name appear in any disclosure made against the offence type in question, then not only could this help to reinforce your suspicions (possibly incorrectly !!) but armed with other information that may be already be known (eg absence from work for a court appearance) or available in the public domain (eg court attendance records, media reports, and so on) we feel you could potentially identify either the individual concerned or other persons that we might provide the first name for.
- b) Conversely, if you had suspicions that someone you know might potentially have received a charge or conviction for one of these named offences, should their first name not actually appear in any disclosure made to you for the offence type in question, then we would inadvertently be providing you with the personal information of that individual - in as much that we would be confirming that they did not receive a charge for the offence in question.

- c) For reference, it should also be noted that there is no obligation on Wiltshire Police to make a determination under FOI legislation as to what to disclose and what not to disclose (eg whether or not we deem the name of an individual is deemed unique enough to unavoidably provide explicit identification of an individual or otherwise).

Section 17 of the Freedom of Information Act 2000 requires the Wiltshire Police, when refusing to provide such 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.

The exemption applicable to the information requested is:

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,

Nick Penny
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 Fol 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