



Force Disclosure Unit
Wiltshire Police HQ
London Road
Devizes
Wiltshire
SN10 2DN
Tel 101 ext 62005
www.wiltshire.police.uk
disclosure@wiltshire.police.uk

Date: 6th August 2021

Your Ref: FOI

Our Ref: FOI 2021/585

Reply contact name is: Kay Moore

Dear,

I write in connection with your request for information dated 9th July 2021 concerning the gross misconduct hearing of the named Officer.

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:

Please provide me with an electronic copy of (i) the transcript, (ii) the panel's full written findings, and (iii) the panel's decision on sanction, in relation to the disciplinary hearing of the named Officer. If there is no transcript, the audio recording will be acceptable as an alternative.

Our response:

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

- Section 21(1) – Information Accessible to the Applicant by Other Means
- Section 31(1)(g)(2)(b) – Law Enforcement
- Section 38(1) – Health and Safety
- Section 40(2) – Personal Information

Sections 31 and 38 are qualified exemptions and therefore require the harm in disclosing this information along with a Public Interest test, to be articulated. This will be carried out below.

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. Please see the public interest considerations made below in relation to S31 and S38.

Public Interest Test

Overall Harm

Wiltshire Police have a duty to prevent and detect crime, and to bring to justice those offenders that break the laws of this country. In this circumstance, although the hearing was public in as much as members of the public could attend and listen to proceedings, this is only considered a 'window of opportunity' during proceedings and is not considered a disclosure to the world. Not only this, but if full disclosure of the requested transcript and the panel's full written findings were to be made, this could potentially cause undue anxiety and distress to the victim involved and could also compromise our investigative capabilities by revealing enquiries that have already been conducted. If Wiltshire Police were to disclose any information that is not in the public domain it could be highly prejudicial to any ongoing or future investigations that are similar in nature. This could result in offenders evading detection and a decrease in the Police force's ability to protect the public.

Factors favouring Disclosure – S31

The information requested relates to a misconduct hearing into a named officer. There is a strong argument for increased transparency in the way misconduct investigations into Police Officers are handled.

Disclosure may improve public debate into this subject area and highlight that any allegations against Police are investigated appropriately and in line with current legislation, the [Police \(Complaints and Misconduct\) Regulations 2020](#).

Factors against Disclosure – S31

The Police (Complaints and Misconduct) Regulations 2020 makes provision within Part II on the actions that must be followed when carrying out Misconduct Investigations, see below link:

<http://www.legislation.gov.uk/ssi/2014/68/contents/made>

It has been publicly acknowledged that the named officer has been through a formal misconduct hearing following a thorough investigation undertaken by Wiltshire Police. To disclose any information relating to this particular case would undermine the investigative process stipulated within the Conduct Regulations mentioned above thereby hindering the effective delivery of law enforcement (the purpose of ascertaining whether any person is responsible for any conduct which is improper).

Furthermore, disclosure would deter individuals from providing information to assist such investigations.

Factors favouring Disclosure – S38

Disclosure would lead to better awareness for the community in relation to these disciplinary hearings and may enable members of the public to take further precautions against such offenders. It may also have the positive impact of an increase in members of the public reporting information to the Police, thus enabling the force to more efficiently protect the wellbeing of the public.

Factors against Disclosure – S38

If disclosed, this information would cause substantial distress to the victim as well as their family and friends. This is particularly the case due to the sensitivity of the information requested. Disclosure would very likely cause harm to the victim on top of what they have already been through and Wiltshire Police will not disclose information if it would cause harm, no matter physical, emotive or mental to victims of crime or members of the public.

Balance Test

The Police service is 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 the way misconduct investigations into Police Officers are handled, there is a very strong public interest in safeguarding victim as well as any ongoing or future investigations that may be of a similar nature.

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

In relation to part (iii) of your request, this information is exempt by virtue of Section 21 of the Freedom of Information Act 2000 (Information accessible to applicant by other means).

The following link will direct you to a recent article in the public domain where it confirms that the named Officer was dismissed – <https://www.swindonadvertiser.co.uk/news/19417049.wiltshire-police-officer-dismissed-inappropriate-sexual-behaviour/>

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 21(1) – Information Accessible to the Applicant by Other Means
Section 31(1)(g)(2)(b) – Law Enforcement
Section 38(1) – Health and Safety
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,

Kay Moore
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 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