

**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: 03 September 2021

Your ref:

Our ref: FOI 2021/585

Reply contact name is: Lloyd Tilbury

Dear,

I write in connection with your request for information dated 9th July 2021 concerning Gross Misconduct Hearing.

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:

- 1) 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. If there is no transcript, the audio recording will be acceptable as an alternative.

Response:

On reviewing your original Freedom of Information request, the response provided to you and your request for an Internal Review, I can respond as follows:

Whilst I do not believe that Section 31 is applicable, I uphold the rest of the original response of Sections 21, 38 and 40.

The information that you are requesting is exempt by virtue of the following exemptions:

Section 21(1) – Information accessible to applicant by other means

Section 38(1) – Health and Safety

Section 40(2) – Personal Information

Section 38 is a prejudice based and qualified exemption, therefore the harm (prejudice) in disclosure should be evidenced and the public interest given.



INVESTOR IN PEOPLE

Section 40 is a class based absolute exemption, for that reason there is no requirement to articulate the harm in disclosure or a requirement for the public interest test. However, disclosing this information would breach the Data Protection Act 2018, specifically Principle One (Fairness).

Overall Harm

Firstly, it should be noted that although members of the public could attend the gross misconduct hearing, this is a 'window of opportunity' and therefore does not set a precedent that any further information should also be disclosed when requested.

Although every effort should be made to release information under the Freedom of Information Act, to disclose this type of information would cause emotional and mental distress onto those involved with the hearing, including the victims.

Public Interest Considerations

Section 38

Factors Favoring Disclosure

Disclosing this information would lead to a better-informed public, especially in relation to gross misconduct hearings concerning Wiltshire Police officers/staff. This would demonstrate that Wiltshire Police is as open and transparent as possible. In addition, it may also increase the willingness of members of the public to report offences to the police and lead to a better-informed discussion.

Factors Against Disclosure

To disclose this information would cause a large amount of mental and emotive distress to all those involved with the misconduct hearing, including the victims as well as their family and friends. This is in addition to what they have already experienced. Wiltshire Police will not disclose information into the public domain if it would cause harm, no matter physical, emotive or mental to victims of offences.

Furthermore, there is a large public interest in ensuring that victims of offences are safeguarded and not caused any further harm by a disclosure into the public domain by the police.

Balance Test

The above points highlight both the merits and issues with disclosing the requested information in relation to your Freedom of Information request. Whilst there is a public interest in the openness and transparency of policing, there is a stronger public interest in ensuring that victims, as well as their family and friends, are not caused further harm, anxiety and distress via a disclosure of information. Overall the police service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Because of this, Wiltshire Police will not divulge any information into the public domain if to do so would cause any further harm or distress to victims of offences.

The public interest is very largely in favor of non-disclosure for these reasons.

This would only be overridden in exceptional circumstances, which the Freedom of Information request is not.

In relation to Section 21, please find, by following the below link, information easily accessible regarding Questions Two and Three of your request:

<https://www.swindonadvertiser.co.uk/news/19417049.wiltshire-police-officer-dismissed-inappropriate-sexual-behaviour/>

Section 17 of the Freedom of Information Act 2000 requires Wiltshire Police, 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. In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice for those aspects of your request.

Exemptions applied:

Section 21(1) – Information accessible to applicant by other means

Section 38(1) – Health and Safety

Section 40(2) – Personal Information

Please contact me if you would like to discuss the withheld information.

Yours sincerely,

Lloyd Tilbury
Principal Decision Maker

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



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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.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

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