



XXXXXX
By email



Force Disclosure Unit
Wiltshire Police HQ
London Road
Devizes
Wiltshire
SN10 2DN
Tel 101 ext. 62005

Website: www.wiltshire.police.uk
Email: disclosure@wiltshire.police.uk

Date: 15th June 2023

Our ref: FOI 2023/631

Reply contact name is: Nick Penny

Dear XXXXXX,

I write in connection with your request for information dated 14th June 2023, concerning Force Management Statement (FMS).

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:

Under the terms of the Freedom of Information Act 2000, please provide me with a full copy of your 2023 Force Management Statement.

According to HMICFRS it had to be submitted by Friday 2nd June at the latest
<https://www.justiceinspectorates.gov.uk/hmicfrs/publication-html/force-management-statement-guidance-for-forces/>

Please send me the full FMS, not a summary of it. In addition, please send me it in searchable PDF format if possible rather than a scanned-in, photocopied version or a hard copy.

Our Response:

Wiltshire Police are unable to respond to your request for information as it is considered to be vexatious under Section 14(1) Freedom of Information Act (FOIA) 2000. Although there is no obligation on a public authority to articulate the reasons why a request is vexatious, I have decided to provide the decision making thought process for applying this exemption, along with some of the Information Commissioner's guidance on its application.



INVESTOR IN PEOPLE

Whilst the FOIA has been designed to give the public access to information held by public authorities, Section 14(1) has been designed to protect these public authorities by allowing them to refuse any requests that have the potential to cause a **disproportionate or unjustified level of disruption**, irritation or distress.

The purpose of Section 14 was outlined during the Upper Tribunal in the case of [Information Commissioner vs Devon County Council & Dransfield \(2012\)](#);

'Section 14...is concerned with the nature of the request and has the effect of disapplying the citizen's right under Section 1(1)...The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA...' (paragraph 10).

Additionally, the Information Commissioner's guidance encourages public authorities to consider the use of Section 14(1) in any case where it's believed the request is disproportionate or unjustified ([paragraph 11](#)).

In his guidance on Section 14(1), the Information Commissioner says an authority is likely to have a viable case where:

- The requester has asked for a substantial volume of information **AND**
- The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO **AND**
- Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.

Substantial volume of information

Whilst I can confirm Wiltshire Police do hold the information requested – and it was submitted to HMICFRS in a timely manner - and therefore there are no issues regarding engaging Section 12 (cost of compliance exceeds appropriate limit) of FOIA, the Force Management Statement (FMS) is a very substantial document – running to many hundreds of pages - and Wiltshire Police are concerned this will more than likely contain exempt information. The FMS would need to be reviewed line by line to determine whether the information within the document engages any of the exemptions within the FOIA.

Although Wiltshire Police have previously answered this request, the process of identifying exempt information and marking the document, to ensure it was suitable for public viewing, took many weeks. The process included:

- Asking department heads / subject experts to review their individual sections and identify any information that would be harmful to disclose into the public domain.
- Reviewing these comments to determine whether any exemptions under FOIA were engaged - this was completed by myself.
- Occasionally needing to seek further clarification from department heads / subject experts regarding their reasoning why they highlighted a certain part of the section as harmful.
- The FMS department completing a final check of any redactions and the arguments for / against applying the exemption before the redactions could be made and the response sent out to the requester.

This process diverted department heads / subject experts and staff from the Force Disclosure Unit away from their core functions for significant periods of time. The ICO has provided the following guidance in relation to this:

Requests which would impose a grossly oppressive burden but are not covered by the Section 12 cost limits

69. An authority cannot claim Section 12 for the cost and effort associated with considering exemptions or redacting exempt information.

70. Nonetheless, it may apply Section 14(1) where it can make a case that the amount of time required to review and prepare the information for disclosure would impose a grossly oppressive burden on the organisation.

Real concerns about potentially exempt information

From previous responses to this / very similar requests, I can confirm it is likely the following exemptions would be engaged:

- Section 23(1) – Information supplied by, or relating to, bodies dealing with security matters
- Section 24(1) – National Security
- Section 30(1) – Investigations
- Section 31(1) – Law enforcement
- Section 43(2) – Commercial interests

The application of exemptions also requires completing prejudice and/or public interest tests, which allow the public authority to articulate the positive and negative effects disclosure would have on them.

Potentially exempt information cannot easily be isolated because it is scattered throughout

As a substantially large document has been requested, rather than specific information within the document, it could be argued you do not know what the information you require but instead hope to find something of interest within the document. This can be seen as a 'fishing' expedition, as it is creating a burden on the authority by requiring us to spend a large amount of time considering any exemptions and redactions that may apply. Please see [paragraphs 80 to 83](#) of the ICO guidance for further information.

Based on the above arguments, it is considered that complying with this request would be **a burden on the authority** and it is demonstrated how this **would cause a disproportionate level of disruption**. On this basis, Section 14(1) FOIA is engaged.

Section 17 of the Freedom of Information Act 2000 requires 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 14 – Vexatious or repeated requests

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

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

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

Yours sincerely,

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