



WILTSHIRE POLICE

Force Disclosure Unit

Police Headquarters
London Road
DEVIZES
Wiltshire
SN10 2DN

Date: 11th September 2023

Ref: FOI 2023/819

Dear,

I write in connection with your request for information dated 15th August 2023 concerning Club Penguin.

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:

I am currently writing a book on Club Penguin, a virtual world owned by Disney which was played by millions of children. In doing so, I've stumbled across files which state that British officers - potentially from your force - were located within Club Penguin offices for the purpose of crime prevention. I'd therefore like to request the following information:

- 1) How many officers were positioned in Club Penguin offices?
- 2) Where were these offices located? (There is reference to some in Kelowna, Canada, but Club Penguin also had an office in Brighton)
- 3) From what time period did this arrangement exist?
- 4) How many cases were handled by these officers?
- 5) I would also be grateful for copies of documentation and correspondence which detail this arrangement between your force and Club Penguin. It may be possible to find through an email search ending with "@clubpenguin.com" or "@disney.com". I expect that all the relevant information would be between 2009 and 2013.
- ~~6) If - and only if - your force is able to perform a keyword search of email correspondence and case files, I would be grateful for a copy of all email correspondence and case files~~

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containing the keyword "Club Penguin". **(the applicant requested that this question be omitted from their request)**

As you may be aware, Club Penguin closed in 2017, and thus I do not expect the prevention of crime exemption to be relevant here. If this information cannot be found, I would be very grateful for a detailed account of what steps were taken to find it.

Our response:

Wiltshire Police neither confirms nor denies that it holds information relevant to this request by virtue of the following exemptions:

Section 23(5) – Information supplied by, or concerning, certain Security Bodies

Section 30(3) – Investigations

Section 31(3) – Law Enforcement

Section 23 is a class-based absolute exemption and there is no requirement to evidence the harm or consider the public interest.

Section 30 is a class-based qualified exemption and consideration of the public interest must be given as to whether neither confirming nor denying information exists is the appropriate response.

Section 31 is a prejudice-based qualified exemption and there is a requirement to articulate the harm that would be caused in confirming or not that the information is held as well as carrying out a public interest test.

Harm in complying with Section 1(1)(a) – to confirm or not whether information is or isn't held

The public expect police forces and other law enforcement agencies (LEAs) to use all powers and tactics available to prevent and detect crime or disorder and maintain public safety. There are a number of covert tactics available and undercover policing is one of them, which could include the deployment of online operatives in pursuit of tackling child sexual exploitation. Applied correctly, and supported by appropriate training, it is a proportionate, lawful and ethical tactic which provides an effective means of obtaining evidence and intelligence.

Undercover policing is only used as defined within relevant legislation, i.e. the Regulation of Investigatory Powers Act 2000, and any undercover officers are bound by a Code of Ethics.

The College of Policing Authorised Professional Practice for Undercover Policing details the principles and standards of undercover officers; the legal framework which underpins their use and sets the standards of professional practice, see below link:

<https://library.college.police.uk/docs/college-of-policing/APP-Undercover-policing-February-2021v2.pdf>

In addition, this APP clearly articulates the harm in confirming or denying whether information is held relating to undercover officers:

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'... The established principle of NCND is used by law enforcement agencies to protect covert methods, sensitive information and the identity of sources of information including UCOs. NCND is not to be used to hide information the force or agency does not wish to disclose. It safeguards tactics and the lives and wellbeing of UCOs, their families and others. Sometimes simply confirming or denying whether a force or agency holds a particular category of information could itself disclose sensitive and damaging information. The principle of NCND is needed to prevent harm which may arise if law enforcement agencies have to confirm or deny whether they hold particular information....'

Albeit Club Penguin was discontinued by Disney, the impact of confirming or denying whether information is held would undermine the College of Policing APP for Undercover Policing and more importantly the whole covert 'undercover' policing ethos.

In addition, to confirm or deny whether information is held in this case has the potential to undermine the flow of information (intelligence) received from members of the public into the Police Service and other outside agencies relating to child sexual exploitation via any other online platforms. Furthermore, ongoing investigations would also be compromised which could lead to police officers having to be removed from their frontline duties in order to increase manpower on a particular operation/investigation.

Finally, sexual offences against children is a highly emotive subject and not only a national problem but also a global one. In order to ensure the police delivers effective law enforcement we liaise with various other law enforcement partners to provide suitable support. Not only would police investigations be compromised but any enquiries or investigations that other agencies may be undertaking would also be compromised.

Public Interest Test

Section 30(3) Investigations

Factors favouring confirming or denying that any information is held –

Confirming or denying that any information exists would lead to a better-informed public, improving their knowledge and understanding of how the Police Service utilise their resources as part of their investigative policing.

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Confirming or denying that information exists could promote public trust in providing transparency and demonstrating openness and accountability into whether any investigations took place relevant to this request. It could also provide reassurance to the public that the Police Service takes all reports of a crime seriously and conducts investigations appropriately. To confirm information is held could allow the public to have a better understanding of the effectiveness of the Police Service.

Factors against confirming or denying that any information is held –

However, by its very nature information held relating to the topic of investigating child sexual exploitation online is sensitive. Under FOI there is a requirement to comply with Section 1(1)(a) and confirm what information is held. In some cases, it is that confirmation,

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or not, which could disclose facts harmful to individuals and ongoing investigations. In some cases, their mere existence can place individuals in grave danger. The only methodology which will provide the required degree of protection to those individuals is if the force takes advantage of its ability under FOI legislation to, when appropriate, not confirm or deny that the information requested or the type of information requested is, or is not held. The Police Service will never confirm or deny information is held if in doing so could identify investigative activity, and therefore undermine their investigations. To do so would hinder the prevention or detection of crime.

Section 31(3) Law Enforcement

Factors favouring confirming or denying whether information is held –

To confirm or deny that this information is held would make members of the public more aware of whether or not the police were aware of the presence of child sexual exploitation on specific platforms, such as Club Penguin, and acted accordingly. Improved public awareness may lead to more intelligence being submitted to the police as members of the public will be more observant to suspicious activity which in turn may result in a reduction of crime.

Factors against confirming or denying whether information is held –

To confirm or deny that the requested information is held could compromise law enforcement tactics which would hinder our ability to prevent and detect crimes. More crimes could be committed as providing an indication to any individual who may be undertaking criminal activities that the police service may or may not be aware of their presence online and those criminals will take steps to avoid detection, or otherwise embolden them to operate with a sense of impunity, thus placing the public (children to be precise) at a greater risk.

Balance test for Sections 30 & 31

The points above highlight the merits of confirming, or denying, whether any information pertinent to this request exists. The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The Police Service will never divulge whether or not information pertinent to this request does or does not exist, if to do so it would open the door to similar requests about policing activity within a similar environment, the results of which would place the safety of an individual(s) at risk, compromise an ongoing investigation or undermine the policing purpose in the effective delivery of operational law enforcement.

Whilst there is a public interest in the transparency of policing operations and investigations, providing reassurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding of the individuals, in this case children. As much as there is a public interest in knowing that policing

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activity is appropriate and balanced it will only be overridden in exceptional circumstances.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for neither confirming, nor denying that information is held is appropriate.

No inference can be taken from this refusal that the information requested does or does not exist.

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,

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

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.

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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