

Date: 24/06/2022

Our Reference: FOIA-2022-050

RE: Your request for information under the Freedom of Information Act 2000

I write in response to your Freedom of Information request, dated 26/05/2022, which you requested:

Background: On 27th April 2022 Thames Valley Police (TVP) held a misconduct hearing for an unnamed former Constable who was accused to have breached the standards of authority, respect and courtesy and discreditable conduct. Subsequently the TVP misconduct hearing panel proved that the officer's behaviour was so serious to have amounted to Gross Misconduct and had the individual remained a Constable, they would have been dismissed without notice.

Please Provide:

- 1. The name and rank of the TVP Constable who was the subject of the misconduct hearing outcome whose details will be added to the Police Barred List*
- 2. The event, or series of events provided to you by TVP which led to the former Constable being found proven of Gross Misconduct, henceforth added to the Police Barred List.*
- 3. The date in which the person mentioned in 'Background' and '1.' will be added to the Police Barred List and will be updated on the following webpage: <https://www.college.police.uk/ethics/barred-list/search-the-barred-list>*

Decision

When a request for information is made under FoIA 2000, a public authority has a general duty under section 1(1) of the Act to inform an applicant whether the requested information is held. There is then a general obligation to communicate that information to the applicant.

In line with section 1(1) of the FoIA, I can confirm the College does hold the information you require. However, the entirety of your request has been exempt from release under Section 40(2) Personal Information. Please refer to Appendix A.

Yours sincerely,

James Rose, Legal Advisor
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College of Policing
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Appendix A

Section 40(2) – Personal information

Section 40(2) states that:

“Any information to which a request for information relates is also exempt information if- (a) It constitutes personal data which do not fall within subsection (1), and (b) Either the first or the second condition below is satisfied.”

Essentially, under section 40(2) FoIA (by virtue of section 40(3A)), personal data of a third party can be withheld if any of the data protection principles would be breached by disclosing that data.

Personal data is defined in section 3(2) of the Data Protection Act 2018 (DPA), as being:

“Any information relating to an identified or identifiable living individual”.

Section 3(3) DPA defines an identifiable living individual as: “a living individual who can be identified, directly or indirectly, in particular by reference to – (a) an identifier such as a name, an identification number, location data or an online identifier, or (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual”.

As is stated above, the two main elements of personal data are: that the information must ‘relate’ to a living person and that the person must be identifiable. Information will relate to a person if it is: about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them, and has them as its main focus or impacts on them in any way.

We consider that releasing a name, events, or timeline from the Barred List may lead to the indirect identification of an individual outside of the mechanism and protections afforded by the Barred List which would, in turn, be a breach of the data protection principles laid out in the Data Protection Act 2018. Any member of the public can search for an individual on the Barred List by entering a first and last name. As the Barred List works on a rolling basis, with names regularly being added and removed over the course of time, we are of the view that it would not be fair or lawful to release specific details outside of the Barred List i.e. via FOI, when they may in due course, be amended or removed.

We would like to refer you to a recent decision notice from the Information Commissioners' Office regarding the barred list and Metropolitan Police Service, which upheld our decision to withhold names from the Barred List using Section 40(2). It highlights that information presented by the media or previously published by an individual force does not provide a right of access to information contained within the barred list. It quotes:

*"The Commissioner understands from previous investigations that some of the requested information might be available online by way of media reports based on information which might previously have been disclosed by the MPS under the aforementioned Police (Conduct) Regulations 2020. However, such disclosures would not have been made under the remit of FOIA and they do not establish a precedent for disclosure under the Act."**

Also, as part of the same decision the Commissioner also supported our design mechanism of the barred list in terms of how a member of the public can search for information:

"...the Commissioner notes that CoP only provides access to records of an individual on the barred list in response to their name firstly being input into the database. The barred list as a whole is not published and it is not otherwise available for the public to view. The public has limited access to the content, based on the searcher being restricted to looking for information about a specific individual, rather than simply perusing all the content; the Commissioner considers this to be a proportionate way of accessing this type of information..."

The College of Policing does accept that releasing this information would reinforce the College's commitment to being an open and transparent organisation, serving to maintain public confidence in the College and the wider police service. However, we also have a legal duty to ensure that the rights to privacy of individuals are protected. On balance the College of Policing does not consider that the legitimate public interest would outweigh the interests of the data subject in this case and that it would not be fair or proportionate to release this information into the public domain.

*This decision notice has not yet been published on the ICO website but is disclosed to you as part of your FOIA request.

Appendix B

Your right of review

Under the Freedom of Information Act 2000 you have a right to request an internal review if you are dissatisfied with our handling of your request. Review requests should be made in writing (by email or post) within 40 working days from the date of our original response. We will aim to respond to your review request within 20 working days.

The Information Commissioner's Office (ICO)

If, after lodging a review request you are still dissatisfied, you may raise the matter with the ICO. For further information you can visit their website at <https://ico.org.uk/for-the-public/official-information/>. Alternatively, you can contact them by phone or write to them at the following address:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 0303 123 1113