

**Date:** 19<sup>th</sup> April 2021

**Our Reference:** FOIA-2021-034

## **RE: Freedom of Information Act 2000 Request**

I write in response to your Freedom of Information Act 2000 (or 'FoIA 2000') request dated 24/03/2021 in which you requested information contained in the Police Barred List for the names of police officers, PCSO and staff members dismissed for gross misconduct.

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. If a public authority decides that the information should not be disclosed because an exemption applies, it must, under section 17(1) cite the appropriate section or exemption of the Act and provide an explanation for relying upon it.

It is important to note that a freedom of information request is not a private transaction. Both the request itself and any information disclosed are considered suitable for open publication, that is, once access to information is granted to one person under the legislation, it is then considered public information and must be communicated to any individual should a request be received. In light of this, our responses and disclosures are published on our external website at a later date. This should be borne in mind where a request is made for personal data of named individuals.

### **Decision**

After conducting careful searches for any information relevant to your request I can confirm that there is information held. However, your request is being refused under the following exemption:

- Section 40(2) – personal information

Please note that the information contained on the Barred List is made available via the publicly searchable list in accordance with legislation which was designed in close consultation with both the Home Office and the Information Commissioners Office. Each year the College commits itself to transparency by publishing yearly data. This can be found here:

<https://beta.college.police.uk/article/barred-list>.

These are the latest broken down figures for each force, as well as providing reasons for dismissal. These figures cover 1 April 2019 – 31 March 2020. Figures for April 2020 - March 2021 will be released later this year. Any request for this data will likely cause consideration for a section 22 of the FOIA, which would be our intention for future publication.

A refusal notice is provided in **Appendix A**. I trust this letter answers your questions. Your rights

are provided in **Appendix B**.

Yours sincerely,

**Legal Services**  
**Information Management and Legal Team**  
**College of Policing**  
Email: [FOI@college.pnn.police.uk](mailto:FOI@college.pnn.police.uk)  
Website: [www.college.police.uk](http://www.college.police.uk)

## **Appendix A Refusal Notice**

### **The legislation: Section 40(2) – personal information**

- 2) Any information to which a request for information relates is also exempt information if –
- c) It constitutes personal data which does not fall within subsection (1), and
- d) The first, second or third condition below is satisfied

Under section 40(2) by virtue of section 40(3A)(a), personal data of a third party can be withheld if it would breach any of the data protection principles to disclose it. Personal data is defined in section 3(2) of the Data Protection Act 2018 (DPA) as:

*'any information relating to an identified or identifiable living individual (subject to subsection (14)(c)).'*

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, or has them as its main focus or impacts on them in any way.

In this instance, the information 'relates to' the names of individuals contained on the Police Barred List. It is the College's view that the information requested would fall within the definition of 'personal data' as the requested information relates to living individuals and they are identifiable from that information.

Personal data is exempt if either of the conditions set out in sections 40(3) and 40(4) of FoIA 2000 are met. The relevant condition in this case is at section 40(3)(a)(i) of FoIA 2000, where disclosure would breach any of the data protection principles. In this case the College has considered whether disclosure of the personal data would breach the first data protection principle, which states that 'Personal data shall be processed fairly and lawfully.'

The College are of the view that there would be no legitimate expectation on the part of some of the data subjects that the College would disclose this information without the consent of the individuals concerned first being obtained. Exception is given of course to those who hold senior positions within the College of Policing, the UK police service, and the Police and Crime Commissioner, where there is an expectation that such information would be disclosed with or without consent. It has not been possible to obtain the consent of those data subjects and it would be unfair to them to disclose their personal data without consent being obtained. It is our view that the data subjects would have a reasonable expectation that this information would not be disclosed and it would not be fair to them to put this information into the public domain without their express consent.

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. On balance however 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 to put this information in the public domain without their consent.

Based on the above I am of the view that it would not be fair to disclose the names of individuals contained on the Police Barred List as captured by your request and to do so would breach the first Data Protection principle, which requires the College to process personal data fairly and lawfully. As such it is not necessary for me to go on to consider the other elements of the first principle.

It is for this reason that the College of Policing have withheld this information under 40(2) by virtue of section 40(3)(a)(i).

## **Appendix B Rights**

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can request that the decision is reviewed internally.

Internal review requests should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: [FOI@college.pnn.police.uk](mailto:FOI@college.pnn.police.uk)

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

### **The Information Commissioner**

If, after lodging an internal review request with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at <https://ico.org.uk/for-the-public/official-information/>.

Alternatively, write to:

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Phone: 0303 123 1113**