

Dear

I write further to your request for information under the Freedom of Information Act (FOI Act) which was received on 30 March 2016.

You asked for:

1. Can you tell me the terms of reference for the Lancashire Police investigation into Chief Constable Mark Gilmore in relation to police standards of professional behaviour and a date when the investigation will be concluded?
2. Can you tell me how many officers have been 'acting up' since the suspension of Chief Constable Gilmore in June 2014 and how much extra they have each been paid in wages for doing so?

I can provide the following information.

1. Investigation Terms of Reference

We are unable to provide you with the terms of reference as we believe that an exemption applies. Section 17 of the FOI Act states that, where a public authority, relies upon an exemption it must give notice which:

- (a) states the fact
- (b) specifies the exemption, and
- (c) states why the exemption applies.

The following exemptions have been applied:

Section 31 Law Enforcement

31 (1) of the FOI Act states that 'information ... is exempt information if its disclosure under this Act would, or would be likely to, prejudice:

- (a) The prevention or detection of crime.
- (b) The apprehension or prosecution of offenders.
- (c) The administration of justice.
- (g) The exercise by any public authority of its functions for any of the purposes specified in subsection (2) as follows:
 - (2) (a) the purpose of ascertaining whether any person has failed to comply with the law
 - (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper'

This exemption requires a prejudice test and public interest test.

Prejudice Test

Disclosure is likely to prejudice law enforcement on the grounds that the conduct investigation by Lancashire Constabulary is ongoing. Disclosure before completion of the investigation is likely to damage the investigation if it results in media speculation and intrusion leading to a detrimental impact on the investigation. There has been extensive reporting of information relating to the investigation, suspension and redeployment of the Chief Constable and a clear public and media interest in the case, however, we have concluded that disclosure at this point in time is likely to prejudice the investigation.

Public Interest Test

Factors in favour of disclosure:

- Transparency. Demonstrating that the Police and Crime Commissioner has taken appropriate action within the requirements of the police conduct regulations.
- Public confidence. Demonstrating to the public that allegations of police misconduct are dealt with appropriately.

Factors against disclosure:

- Harm to the investigation. Damaging the ongoing investigation in terms of media speculation and intrusion thus compromising its integrity, and also resulting in
- Harm to future reporting and investigation of allegations of misconduct by damaging the confidence of staff and officers in the police service from reporting potential misconduct or engaging with misconduct investigations.

Section 40 – Personal Information

S40(1) of the FOI Act states that 'any information is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) 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:

(3) The first condition is:

- In a case where the information falls within any of the paragraphs (a) to (d) of the definition of data in section 1(1) of the DPA 1998, that the disclosure of this information to a member of the public otherwise than under this Act would contravene:
- Any of the data protection principles'

Section 40(2) is an absolute exemption if disclosure would breach any of the data protection principles.

The information contained in the terms of reference is sensitive personal information relating to the conduct of the data subject. Disclosure of this information would breach the first data protection principle, that data must be fairly and lawfully processed.

In concluding that disclosure would be unfair the following factors have been taken into account:

- Disclosure would satisfy the public interest in senior police officers being held to account, however,
- The Chief Constable would have a reasonable expectation that sensitive personal information would not be disclosed, and
- The Chief Constable and others may be harmed if sensitive personal information is disclosed which then leads to media speculation and intrusion.

You have also asked for the date that the investigation will be concluded. This matter was referred to the Independent Police Complaints Commission (IPCC) who decided that it should be subject to a local investigation. Lancashire Constabulary agreed to conduct this investigation on behalf of the Police and Crime Commissioner and are due to report back in the near future.

2. Acting up

I am afraid this office does not hold the information that you have requested. I am including a link (below) to the statement of accounts for West Yorkshire Police which you may find helpful.

http://www.westyorkshire-pcc.gov.uk/media/90824/201415_cc_audited_accounts.pdf

The audited statement of accounts for the year 15-16 will be published in due course in line with our statutory obligations (draft publication is expected in June with final publication in September).

I hope that you are satisfied with the way your request has been dealt with. If you wish to appeal, however, please write to the Office of the Police and Crime Commissioner as described in the attached appeal procedure.