

FREEDOM OF INFORMATION REQUEST 242

REQUEST

The details of the 59 statements of evidence originally compiled by the WYP PSD regarding allegations of alleged misbehaviour by the former Chief Constable Mark Gilmore.

RESPONSE

I can confirm that the Office of the Police and Crime Commissioner (OPCC) holds witness statements gathered by Lancashire Constabulary who undertook a conduct investigation in relation to the former Chief Constable Mark Gilmore.

The information cannot be disclosed as we believe an exemption applies under the Freedom of Information Act (FOIA). Section 17 of the FOIA requires us to state which exemptions apply and the reasons why we believe they apply.

S40 (2) PERSONAL INFORMATION

S40(2) states that a public authority is not obliged to disclose information if to do so would constitute a disclosure of personal data and if this disclosure would breach any of the data protection principles or section 10 of the Data Protection Act 1998 (DPA).

The information held by the OPCC is personal information as it relates to living individuals who may be identified from the data and represents their views and opinions. Some information held is also 'sensitive personal information' as defined by the DPA as it relates to allegations of wrongdoing.

Disclosure of this information would breach the first principle of the DPA, the duty to process data fairly and lawfully, for the following reasons:

- No consent has been given by the data subjects to disclosure.
- The data subjects have not put this information into the public domain.
- The data subjects would have a reasonable expectation that the information would not be disclosed on the basis that it was created for the purposes of a conduct investigation which is incomplete and for which there was no misconduct hearing.
- Disclosure under the FOIA is a disclosure 'to the World' and would be likely to cause harm and distress to the data subjects.
- Disclosure is not necessary to meet the legitimate public interest in this case given the previous disclosures made by the Police and Crime Commissioner and the reporting in open Court.

On this basis, disclosure of the information held would be unfair and would breach the first principle of the DPA thus engaging an exemption under S40 (2) of the FOIA.

S40 (2) is an absolute exemption which does not require a public interest test.

Details of the OPCC FOI appeal procedure are attached.