

REQUEST 236

Request

'the full, documented report into the allegations as compiled by the West Yorkshire Police Professional Standards Department into the 'whistleblowing allegations' that were brought against the former Chief Constable Mark Gilmore.

If this is not possible please disclose:

- The terms of reference of the investigation
- What were the specific allegations investigated
- What were the findings of the investigation
- What actions were subsequently taken to address the complaints made'

Response

The Office of the Police and Crime Commissioner (OPCC) does not hold any reports compiled by West Yorkshire Police Professional Standards Department into 'whistleblowing allegations' that were brought against the former Chief Constable Mark Gilmore.

The terms of reference for the investigation undertaken by Lancashire Constabulary are attached and these include details of the allegations investigated.

The investigation was not completed at the point that the former Chief Constable retired. I am attaching a report which was considered by the Joint Independent Audit and Ethics Committee which details further actions taken.

Some information has been redacted in the attached documents because we believe exemptions apply. Section 17 of the Freedom of Information Act requires us to state which exemptions apply and the reasons why we believe they apply.

We consider that exemptions apply as follows:-

Section 40(2)(b)– Personal Information
Section 43(2) – Commercial Interests

Section 40(2)(b)– Personal Information

The information contained in the terms of reference is subject to the provisions of the Data Protection Act 1998 (DPA). Within this, the data needs to be processed fairly and lawfully, obtained only for a specified and lawful purpose and compatible with it; adequate, relevant and not excessive in relation to the purposes for which it is processed; it must be accurate and be processed in accordance with the rights of the data subjects (Schedule 1, Part 1). Personal Information can only be disclosed if it does not breach one of the principles of the DPA. The first principle of the DPA requires information to be processed fairly and lawfully.

Information has been redacted where disclosure will breach principle 1 of the DPA, the duty to process information fairly and lawfully. The following factors have been taken into account in reaching this decision.

The information held is sensitive personal information within the scope of the DPA as it concerns the alleged commission of offences or alleged misconduct. Sensitive personal information may only be

disclosed if one of the conditions of Schedule 2 and one of the conditions of Schedule 3 of the DPA are also satisfied.

Disclosure of sensitive personal information would be likely to cause harm and distress to the data subjects and is likely to lead to, or to increase, intrusion into the individual's private and family lives. This is particularly relevant to information which is now dated and where disclosure is likely to lead to renewed public comment.

Whilst the information held relates to individual's professional lives and there would, therefore, be some expectation of disclosure, in circumstances where officers or staff have now left the police service and are no longer in public facing roles this expectation would reasonably be lower.

Some information relates to senior police officers who will have a greater expectation that their personal information will be disclosed but more junior officers and members of the public would have a high expectation that their personal information would not be disclosed.

In considering whether disclosure is likely to breach the DPA we have also taken into account the fact that some information is routinely published by the Office of the Police and Crime Commissioner in relation to complaints and conduct matters relating to the Chief Constable and we have also taken account of information which is already in the public domain either by media reporting or via court records.

Sensitive personal information may only be disclosed if at least one condition in Schedule 3 and at least one condition in Schedule 2 of the Data Protection Act are also met.

Schedule 3 conditions which are relevant to the disclosure of sensitive personal information are: explicit consent (condition 1) and information already being made public by the data subject (condition 5)

Schedule 2 conditions which are relevant to the disclosure of sensitive personal information are: consent (condition 1) and disclosure necessary for the legitimate interests pursued by the Police and Crime Commissioner (PCC) or the third parties to whom disclosure is made except where this leads to unwarranted prejudice to the rights, freedoms or legitimate interests of the data subject (condition 6).

In considering disclosure of sensitive personal information we have taken account of any objections to disclosure and the legitimate public interest relating to the role and actions of the PCC as the person responsible for holding the Chief Constable to account for providing an efficient and effective police service as well as the legitimate public interest in the use of public funds and the effectiveness of the police complaints and conduct processes. We have concluded that, where-ever possible, it is in the public interest to publish information about investigations into police complaints and conduct.

The Police and Crime Commissioner is mindful, however, that the investigation related to anonymous allegations made against the former-Chief Constable Mark Gilmore is incomplete and, furthermore, that Mr Gilmore refutes the allegations made in the strongest terms.

This exemption is absolute and does not require a public interest test.

Section 43(2) – Commercial Interests

Information is exempt information if its disclosure would, or would be likely to, prejudice commercial interests of any person (including the public authority holding it).

The terms of reference refers to a commercial interest and this has been redacted on the basis of the following public interest test:

Factors in favour of disclosure:

- Transparency and accountability in the way the police manage commercial interests or relationships.
- Transparency and accountability in the way that the police operate procurement processes generally.

Factors against disclosure:

- Reputational damage to the commercial interests of a third party, particularly given the competitive market in which the party operates.

Balancing

On balance the factor against disclosure is weighted greater than those in favour of disclosure given that the redacted information relates only to the third party name; all other information relating to this exchange is being provided and the factors in favour of disclosure, therefore, are being fulfilled.

I trust that you are satisfied with this disclosure, however, should you wish to request a review of this response please write to the OPCC as detailed on the attached appeals procedure.

Yours faithfully

Julie Reid
Governance Manager
Officer of the Police and Crime Commissioner for West Yorkshire