

Request Reference 276

Please find, below, our response to your request for information of 21st December 2018.

Request:

Please supply all data held in connection with the above posting which should include but is not limited to:

1. All emails between the PCC's office, including the PCC and any of his staff, and the chief constable, or her staff officer or PA. (Information attached).
2. All emails between the PCC's office, including the PCC and any of his staff, and the chief executive of the College of Policing, or his personal assistant or Jo Noakes. (No information held).
3. Any notes in the PCC's diary, day book or the like concerning the Memorandum of Understanding. (No information held).
4. Any data that assists in the public's wider understanding over the change in the characterisation of the role as a 'flexible attachment' when it had previously been referred to repeatedly in the local press, and by the West Yorkshire Police (WYP) press office, as a 'secondment'. (Attached, in response to Q1).
5. Any data that assists in the public's understanding over the change in the timescales. It was reported in the local press, and by the WYP press office, that the secondment would begin in January, 2019. It actually began on 3rd December, 2018. (No information held).
6. Any data that assists in the public's understanding of the rationale behind the PCC allowing the chief constable to take up this post. Albeit on a cost neutral basis. (Attached decision notice).

Response:

Under the Freedom of Information Act individuals have a right to be informed whether the Office of the Police and Crime Commissioner (OPCC) holds the information requested and, if so, to have that information communicated to them.

Section 17 of the Freedom of Information Act states that:

- (1) A public authority which, in relation to a request for information is, to any extent, relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to any request or on a claim that information is exempt information must...give the applicant notice which:
 - a. States the fact.
 - b. Specifies the exemption in question, and
 - c. States ...why the exemption applies.

Information which constitutes personal information of requester and other parties has been removed from disclosure because we believe that an exemption under S40(1) and (2) of the FOI Act applies.

Section 40(1) Personal Information

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

Section 40(2) Personal Information

S40(2) of the FOI Act states that information is exempt from disclosure if it is personal information of other parties, disclosure of which would contravene any of the Data Protection Principles.

The Data Protection Act 2018 defines personal information as:

'any information relating to an identified or identifiable living individual'

The relevant data protection principle is that information must be processed lawfully, fairly and in a transparent manner (Article 5, 1(a) of the General Data Protection Regulation (GDPR) 2018).

Personal information may only be disclosed if to do so would be lawful, ie, if it would meet one of the conditions of lawful processing listed in Article 6(1) of the GDPR, and be fair and transparent.

Article 6(1) of the GDPR specifies the requirements for lawful processing by providing that *'processing shall be lawful only if and to the extent that at least one of the'* conditions listed in the Article applies.

Some personal information relating to the requester and third parties (staff) has been redacted from this disclosure in order to avoid a breach of the Data Protection Act 2018, because we believe that disclosure would be unlawful and unfair on the basis that consent has not been given to the disclosure. Some personal information, the email addresses and telephone numbers of specific individuals, has been assessed against the 'legitimate interests' lawful basis as follows.

Under Article 6(1)(f) of the GDPR disclosure of personal information may be made where the disclosure *'is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data'*.

In this case, personal information in terms of the email addresses and telephone numbers for specific individuals has been redacted. The legitimate interest in disclosure of this information relates to a general principle of accountability and transparency and an interest in senior public figures being accessible to members of the public. We have concluded that disclosure is not necessary in order to achieve this interest. The names of senior officers are being disclosed and email and telephone contact information for the OPCC and West Yorkshire Police is available on the respective websites. As disclosure is not necessary in order to meet the legitimate interest a balancing test of the rights of the data subjects against the legitimate interest has not been carried out.

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

REVIEW RIGHTS

If you consider that your request for information has not been handled properly or if you are otherwise dissatisfied with the outcome of your request, you may seek an internal review within the Office of the Police and Crime Commissioner of the issue or the decision. I am attaching a copy of our appeal policy.

A request for internal review should be submitted in writing to the Interim Chief Executive, Office of the Police and Crime Commissioner for West Yorkshire, Ploughland House, 62 George Street, Wakefield, WF1 1DL.

If you remain dissatisfied with the outcome of any internal review you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act. The Information Commissioner can be contacted at the Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.