



west midlands
police and crime
commissioner

Freedom of Information request

Your e-mail asking for information using FOI Act 2000 legislation has been received in this office.

On 23 July 2017 you specifically asked for:

“ . . . the number of incidents recorded for workplace bullying lodged against the Police and Crime Commissioner.

“I would also like the total number made in the office.

“I would like these figures from the incumbent's time in office to the most recent.

“I would like this information provided electronically.”

You added,

“If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under your Section 16 obligations, as to how I can refine my request to be included in the scope of the Act.”

In response to your request, it is my opinion that Section 40(5) and Section 31 found in the Freedom of Information Act are applicable.

Section 40(5) provides exemption from the duty to confirm or deny whether information is held, where the information is personal data or would be if it were held. This is a class based qualified exemption and consideration must be given to whether there is a public interest in neither confirming or denying the information exists is the appropriate response.

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Section 31 relates to disciplinary action in that S31(1) is:

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),

and subsection (2):

(b) the purpose of ascertaining whether any person is responsible for any conduct which is improper.

This is a prejudice based exemption and, again, one where a Public Interest Test is applicable.

Public Interest Test:

Factors favouring confirming or denying any other information is held under Section 40(5)

The Police and Crime Commissioner is elected by the public. The public are therefore entitled to know how he/she conducts him/herself within the workplace.

Factor against confirming or denying any other information is held under Section 40(5)

To either confirm or deny that a named person has had a complaint made against them would breach their data protection rights.

Factors favouring confirming or denying any other information is held under Section 31

Being transparent in this area would demonstrate that the PCC takes the subject of workplace bullying seriously and investigates allegations where appropriate

Factors against confirming or denying any other information is held under Section 31

Release of information, should it exist, may discourage individuals from making complaints in fear they may be publically identified. Also inappropriate release may interfere with any ongoing complaint.

Summary

In summary, I believe that I cannot either confirm or deny the existence of the information you require.

Staff numbers in PCC offices are, by comparison to police forces, very small, and therefore a confirmation or denial of the information you seek would relate to a small number of individuals and may discourage individuals from making complaints in the future as they may fear that they could be publically identified.

Your attention is drawn to your right to request a re-examination of your case under the Police and Crime Commissioner's review procedure (see copy attached). Please note that such an appeal must be received within 20 working days of the date of this correspondence

Yours sincerely

Jonathan Jardine
Chief Executive

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