



**FOI Request: 303/2020:**

**Request:**

I'd like a list of all the officers who have been found guilty of gross misconduct for this year please.

I would like to know what each officer was found guilty of, and the date of the misconduct hearing please. Can I also have the outcome of the hearing please – i.e. sacked, criminal charges brought against, etc.

**Response:**

Section 1 of the Freedom of Information Act 2000 places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17 of the Freedom of Information Act 2000 requires - Powys Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if that would not otherwise be apparent) why the exemption applies.

I can confirm that Dyfed-Powys Police does hold the information requested, however the following exemptions have been applied to the whole of the information you have requested:

**Section 21 – Information reasonably accessible by other means**

**Section 22 – Information Intended for Future Publication**

**Section 21 – Information reasonably accessible by other means:**

*“(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.*

*(2) For the purposes of subsection (1)—*

*(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and*

*(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.*

*(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.”*

The above exemption (Section 21) has been applied to part of your request due to the fact that the requested information is already published and can be accessed via the hyperlinks below:

- 1) <https://www.dyfed-powys.police.uk/media/9216/notice-of-outcome-police-misconduct-hearing-28022020-1.pdf>
- 2) <https://www.dyfed-powys.police.uk/media/9218/notice-of-outcome-police-misconduct-hearing-28022020-2.pdf> (Please note, there is a typing error on the published document, the date of the public hearing was 28/02/2020).
- 3) <https://www.dyfed-powys.police.uk/media/9311/misconduct-hearing-07052020.pdf> (Section 22 exemption also applied in relation to the outcome of this case, please see details of Section 22 exemptions below).

### **Section 22 Information Intended For Future Publication:**

*“(1) Information is exempt information if –*

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time the request for information was made, and*
- (c) it is reasonable in all circumstances that the information should be withheld from disclosure until the date referred to in paragraph.”*

Section 22 is a qualified class-based exemption and considerations must be given as to whether there is a public interest in providing the information prior to the anticipated publication.

### **Public Interest Test**

#### ***Considerations favouring disclosure:***

Dyfed-Powys Police is committed to demonstrating an ethos of openness, transparency and accountability and to disclose the information would be seen as providing updated information, and demonstrating continuing ongoing awareness. Current information would enhance public knowledge of the subject and that may better inform public debate around this subject

#### ***Considerations favouring non-disclosure:***

The outcome of the case is due to be published by Dyfed-Powys Police within the next week and to disclose the information requested under the Freedom of Information Act would pre-empt this disclosure. Publication processes are in place and disclosure outside of those arranged processes will render such processes obsolete. Such processes are in place to ensure the proactive publication of information, which is in line with the ethos of openness and transparency found within the Freedom of Information Act 2000.

### **Balancing Test**

Factors need to be balanced to see if they favour disclosure or non-disclosure of the information. In this case the strongest consideration for disclosure is demonstrating an ethos of openness, transparency and accountability, being weighed against the consideration for non-disclosure which in this case is that the requested information is proactively produced and published. Proactive publication of information assists in meeting the public interest test, disclosure at an earlier date would render such processes obsolete and the Force would continuously have to furnish Freedom of Information requests when there is a process in place which ensures that the Force is open and transparent in regard to such information. Therefore, at this moment in time, the balancing test for disclosure is not made out.

Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**It should be noted that as a result of the systems adopted by Dyfed-Powys Police in relation to the recording of such information that the information released may or may not be accurate.**