

OFFICIAL



Heddlu Police

DYFED-POWYS

FOI Reference: 274/2020

Request:

How many crimes were recorded by your force during the period 23rd March 2020 until 20th April 2020, where the victim's occupation was given as Nurse, Doctor, Paramedic, Police officer, Prison officer or just recorded as NHS

Please provide the total number of crimes recorded and the nature of the crime e.g. theft assault etc. etc.

Response:

I can confirm that Dyfed-Powys Police does hold the information requested, however some of that information has been exempted under Section 30(1)(a) Investigations conducted by Public Authorities and Section 40(2) Personal Information (please see the end of the document for an explanation of the applied exemptions).

Crime type	Total
AFFRAY	1
Assault with injury	2
Assault without injury	2
Assault without injury on a Constable	7
Assault with injury on a constable	8
Criminal Damage to Dwellings	1
Criminal Damage to Vehicles	1
Controlling & Coercive Behaviour	1
Dangerous dog assault with injury	1
Harassment	1
Racially/Religiously Aggravated Public Fear, Alarm or Distress	1
Investigation ongoing (crime type exempted under S30(1)(a) and S40(2))	23
Grand Total	49

Explanation of the applied exemptions:

Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities
Section 40(2) Personal Information

Section 30(1)(a) is a class-based qualified exemption. This means that the legislators when writing the legislation considered that the release of such information under the Freedom of Information Act 2000 would cause harm to the public authority or individual concerned. There is therefore no requirement to carry out a HARM Test in respect of such information. However there is a requirement to carry out a Public Interest Test in order to establish whether the public interest in maintaining the exemption may be outweighed by a wider public benefit in disclosure.

The Section 40(2) is a class-based absolute exemption and there is no requirement to consider the public interest in disclosure. That being said, where Section 40(2) is engaged in order to make the exemption absolute there needs to be evidence that a data protection principle would be breached by disclosure. In this case, it would not be fair to process information which could lead to the identification of an individual. Therefore the first principle of the Data Protection Act would be breached.

Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities:

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of -

(a) Any investigation which the public authority has a duty to conduct with a view to it being ascertained (i) whether a person should be charged with an offence, or (ii) whether a person charged with an offence is guilty of it.

Public Interest Test

Considerations favouring disclosure:

Disclosure of the information would improve the public's knowledge and awareness regarding the frequency of such crimes.

Considerations favouring non-disclosure:

This exemption covers information held at any time for the purpose of an investigation, whether the case is ongoing, closed or abandoned. To release details of ongoing investigations, as in this case, could undermine and prejudice those investigations. This would impact on the forces' future law enforcement capabilities by hindering the prevention or detection of crime.

Balancing Test

After considering the advantages and disadvantages in disclosure, it falls upon Dyfed-Powys Police to conduct a balance test on the issues. The strongest argument for disclosure, which is public awareness, needs to be weighed against the strongest arguments for non-disclosure, which in this case is that the release would undermine and prejudice an ongoing investigation, which would impact on the forces' future law enforcement capabilities by hindering the prevention or detection of crime.

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

Section 40(2) Personal Information:

Section 40(2) applies to third party personal data and is exempt from disclosure under the Freedom of Information Act 2000 if disclosure, in relation to data subject to law enforcement processing, would breach any of the data protection principles contained within Part 3 -

Chapter 2 of the Data Protection Act 2018. Under Section 34 within Chapter 2 “The Controller in relation to personal data is responsible for and must be able to demonstrate, compliance with” Chapter 2. Such information would not be released under the Freedom of Information Act 2000 unless there is a strong public interest. One of the main differences between the Freedom of Information Act 2000 and the Data Protection Act 2018 is that any information released under FOI is released into the public domain, not just the individual requesting the information and disclosure under the Act must be made with that in mind. As such, any release that identifies an individual through releasing their personal data, even third party personal data is exempt.

Personal data is defined under Section 3 of the Data Protection Act 2018 as:

“(2) ‘Personal data’ means any information relating to an identified or identifiable living individual (subject to subsection (14)(c)).

(3) ‘Identifiable living individual’ means a living individual who can be identified, directly or indirectly, in particular by reference to—

(a) An identifier such as a name, an identification number, location data or an online identifier, or

(b) One or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.”

All members of the public including those employed by the force have an intrinsic right to privacy and these rights are protected by virtue of the Human Rights Act, the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) and a public authority must not interfere with that right. Any release of the information subject to the exemption is likely to compromise those rights.

Data Protection Act 2018

Part 3 – Law Enforcement – Chapter 2 Principles Section 35

The first data protection principle:

“(1) The first data protection principle is that the processing of personal data for any of the law enforcement purposes must be lawful and fair.”

General Data Protection Regulation

Article 5 of the GDPR – ‘Principles relating to processing of personal data’ provides:

“1. ‘Personal data’ shall be

(a) Processed lawfully, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency);

(b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest...

2. The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 (‘accountability’).”

Dyfed-Powys Police would not want to disclose any information that could potentially identify an individual. In this particular case, to release nature of the offence of an ongoing investigation could lead to the identification of the individual(s) involved and to release such information would be a direct breach of Data Protection legislation. Therefore as a consequence I am satisfied that Section 40(2) Personal Information exemption is applicable to the release of the information. The Section 40 exemption is in part qualified and in part absolute, in the present case it would be absolute as to release the information would breach Data Protection legislation and therefore there is no requirement to carry out a public interest test.

It should be noted that owing to the systems adopted by Dyfed-Powys Police in relation to the recording of such matters the information provided may or may not be accurate.

Police Forces in the United Kingdom are routinely required to provide crime statistics to government bodies and the recoding criteria is set nationally. However, the systems used for recording these figures are not generic, nor are the procedures used locally in capturing the data. It should be noted that for these reasons this Force's response to your questions should not be used for comparison purposes with any other response you may receive.

(This is a response under the Freedom of Information Act 2000 and disclosed on 06/05/20)