



Heddlu Police

DYFED-POWYS

FOI Reference: 781/2020

Request:

- 1) Does your force have an active Black Police Association or similar for black, Asian and minority ethnic (BME) members of your workforce?
- 2) What is it called?
- 3) How many officers, support staff and PCSOs do you have?
- 4) How many of those are BME officers, support staff and PCSOs?
- 5) How many current Attendance Management cases do you have? (Force compared to BME)?
- 6) How many current Complaints do you have against members of the workforce? (Force compared to BME)?
- 7) How many current Disciplinary cases do you have where regulation 21 notices have been served to attend a misconduct meeting/hearing? (Force compared to BME)?
- 8) How many current Employment Tribunals do you have, regardless of type of complaint? (Force compared to BME)?
- 9) How many current Grievances do you have, regardless of type of complaint? (Force compared to BME)?
- 10) How many current Incapability/capability cases do you have? (Force compared to BME)?
- 11) How many current Regulation procedures (Misconduct and Gross Misconduct) do you have? (Force compared to BME)?
- 12) How many current Unsatisfactory Performance Procedures Tribunals do you have? (Force compared to BME)?
- 13) Black and Asian people are known to be at higher risk from COVID-19. What plans did you implement for risk assessing your BAME workforce against the infection during 2020?
- 4) What grade, pay scale or band is your most senior BAME police staff? What is their gender?

Clarification:

Q6, 7 & 11 relate to all those in Dyfed-Powys workforce compared to those who are Black, Asian or minority ethnic in your workforce.
The request relates to the Formal stages

Responses 1 & 2:

I can confirm that Dyfed-Powys Police does hold the information requested, as outlined below.

Dyfed-Powys Police have an Ethnic Minority Support Network.

Responses 3 & 4:

I can confirm that Dyfed-Powys Police does hold the information requested, as outlined below.

	As at 30/11/2020
Total number of police officers employed	1183
Total number of police staff employed	778
Total number of PCSO's employed	149
Total number of BME officers, staff & PCSO's	22

Please note: the above information excludes staff on Career Breaks or External Secondments

Responses 5 – 12:

I can confirm that Dyfed-Powys Police does hold the information requested; however we are exempting part of that information as we believe that the following exemption is relevant:

Section 40(2) Personal Information

Section 40(2) is a class-based absolute 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. There is also no requirement to carry out a Public Interest Test.

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 the requested information concerning BME officers and staff, considering the low numbers of BME officers and staff employed by the force, would lead to the identification of those individuals. To release such information would be a direct breach of Data Protection legislation 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 a class-based 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.

	As at 31/12/2020
Total number of officers and staff at a formal stage of the Attendance Management procedure	3
Total number of BME officers and staff at a formal stage of the Attendance Management procedure	<i>Section 40(2) – Personal Information exemption applied</i>

	As at 05/01/2021
Total number of current complaints against officers and staff	137

Total number of current complaints against BME officers and staff	<i>Section 40(2) – Personal Information exemption applied</i>
As at 05/01/2021	
Total number of current disciplinary cases whereby Regulation 21 notices have been served to attend a misconduct meeting/hearing (all officers & staff)	0
Total number of current disciplinary cases whereby Regulation 21 notices have been served to attend a misconduct meeting/hearing (BME officers & staff)	N/A
As at 07/12/2020	
Total number of current employment tribunals (all officers & staff)	1
Total number of current employment tribunals (BME officers & staff)	<i>Section 40(2) – Personal Information exemption applied</i>
As at 29/01/2021	
Total number of current fairness at work/grievances (all officers & staff)	4
Total number of current fairness at work/grievances (BME officers & staff)	<i>Section 40(2) – Personal Information exemption applied</i>
As at 28/01/2021	
Total number of current Incapability/capability cases (all officers & staff)	0
Total number of current Incapability/capability cases (BME officers & staff)	N/A
As at 05/01/2021	
Total number of current Regulation procedures (all officers & staff)	27
Total number of current Regulation procedures (BME officers & staff)	<i>Section 40(2) – Personal Information exemption applied</i>
As at 31/12/2020	
Total number Unsatisfactory Performance Procedures Tribunals at formal stage (all officers & staff)	5
Total number Unsatisfactory Performance Procedures Tribunals at formal stage (BME officers & staff)	<i>Section 40(2) – Personal Information exemption applied</i>

Response 13:

I can confirm that Dyfed-Powys Police does hold the information requested, as outlined below.

Dyfed-Powys Police have been using the 'All Wales Risk Assessment Tool' and 'Vulnerabilities guidance' in order to risk assess the BAME work force. This has been managed on a day to day basis by the individuals Line Manager with oversight from Occupational Health and HR.

Response 14:

I can confirm that Dyfed-Powys Police does hold the information requested; however we are exempting that information as we believe that the following exemption is relevant:

Section 40(2) Personal Information

Please see details of this exemption above

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.