

OFFICIAL



Heddlu Police
DYFED-POWYS

FOI Reference: 09/2022

Request:

Please could you provide us with a list of all **female victims of homicide killed between 1 January 2021 and 31 December 2021** (inclusive) which your authority has been responsible for investigating and, for each victim:

1. the date of the homicide;
2. the names of the victims and the accused / perpetrator;
3. the age of the victim;
4. the ethnicity/race of the victim;
5. the relationship between the accused and the victim;
6. the sex of the accused / perpetrator;
7. the ethnicity/race of the perpetrator;
8. if identified, the way in which the victim was killed;

Also, if possible, we would appreciate the following information.

9. whether there were any previous reports from the victim (or any third party) regarding the accused / perpetrator; and
10. whether there were any previous reports and / or convictions of any other offences related to violence against women perpetrated by the accused / perpetrator.

Response 1 - 10:

I can confirm that Dyfed-Powys Police does hold the information requested. However, some of that information has been withheld under Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities, Section 38(1)(a) Health & Safety, Section 40(2) Personal information & Section 30(3) Investigations, Section 31(3) Law Enforcement, Section 40(5) Personal Information.

1.Date	2. Victim/Suspect/Offender Names				3. Age of Victim	4. Ethnicity/race of the Victim	5. Relationship Between the Accused and the Victim	6. Sex of Suspect or offender	7. Ethnicity/race of the Suspect/Offender	8. Factor leading to death	9. Previous reports from victim (or 3rd party) relating to suspect/offender	10. Previous reports/convictions relating to violence against women by the suspect/offender
	Victim		Suspect/Offender									
15/02/21	CHRISTINA MARY	ARNOLD	DAVID	ARNOLD	71	WHITE - NORTH EUROPEAN	Partner	M	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	S30(3); S31(3) and S40(5) applies	S30(3); S31(3) and S40(5) applies
30/10/21	NICOLA	WHEATLEY	S30(1)(a), S38(1) & S40(2) applies		40	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	F	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	S30(3); S31(3) and S40(5) applies	S30(3); S31(3) and S40(5) applies
30/10/21	MORGAN	ROGERS	S30(1)(a), S38(1) & S40(2) applies		24	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	F	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	S30(3); S31(3) and S40(5) applies	S30(3); S31(3) and S40(5) applies
30/10/21	ANDREA	POWELL	S30(1)(a), S38(1) & S40(2) applies		41	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	F	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	S30(3); S31(3) and S40(5) applies	S30(3); S31(3) and S40(5) applies
17/12/21	LILY ANN	SULLIVAN	LEWIS	HAINES	18	WHITE - NORTH EUROPEAN	Acquaintance/other known relationship	M	WHITE - NORTH EUROPEAN	S30(1)(a) and S38(1) applies	S30(3); S31(3) and S40(5) applies	S30(3); S31(3) and S40(5) applies

Explanation of the applied exemptions for questions 1 – 8:

Section 1 of the Freedom of Information Act 2000 (FOIA) 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 Freedom of Information Act requires that we provide the applicant with a notice which:

- a) States that fact
- b) Specifies the exemption(s) in question and
- c) State (if that would not otherwise be apparent) why the exemption applies

I can confirm that Dyfed-Powys Police does hold the information that you have requested. However, we are withholding some of the information since we consider that the following exemptions apply to it:

- Section 30(1)(a) Investigations and Proceedings conducted by Public Authorities**
- Section 38(1)(a) Health & Safety**
- Section 40(2) Personal information**

The Section 30 exemption 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 38 exemption is a prejudice-based qualified exemption. There is therefore a requirement to carry out a HARM Test in respect of such information and 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 understanding of the investigatory process and, as all police investigations are publicly funded, would show how public funds are being spent. Murder/homicide investigations are highly emotive and attract large media interest, therefore disclosure of the information would show the public that the investigation had been conducted properly.

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. In addition to this, there are already in place established procedures for disclosure when to do so would aid an investigation, for example an appeal for witnesses through media channels. Disclosure of the requested information would prejudice how investigations are carried out in the future, which in turn would undermine an individual's right to a fair trial. This would hinder the prevention and detection of crime which would affect the forces future law enforcement capabilities.

Section 38(1)(a) Health & Safety:

*(1) Information is exempt information if its disclosure under this Act would, or would be likely to –
(a) Endanger the physical or mental health of any individual,*

Harm for Section 38

To release this information into the public domain at this stage, whereby detail to that level has not previously been disclosed by the force, could cause physical or mental harm to the health of any surviving relative of the deceased and to the offender(s) as to publish this information would create difficult and painful memories to family members at a time when those family members may well be within the healing process, through time, in coming to terms with what happened to their relative some time ago.

Public Interest Test

Considerations favouring disclosure - Disclosure of the information would lead to better informed public awareness on how the police conduct investigations and the use of public funds ensuring transparency in the activities of the public authority especially in high-profile cases such as murder where some information is already in the public domain.

Considerations favouring non-disclosure - Disclosure of the information would cause significant distress to the family. Releasing the information could also jeopardise the physical and mental well-being of members of the family who are only just coming to terms with events of the past in relation to such matters. Disclosure of the information would therefore result in a loss of confidence in the public authority to protect the well-being of the family and local community.

Balance Test for Section 30 & 38:

Disclosure under the Act is a disclosure to the world not just to the individual making the request. The proper detection, investigation and prosecution of crimes are cornerstones of a modern democratic society. The Police Service will never divulge information if it will hinder that core responsibility or affect the health and safety or well-being of individuals or groups of people. Although the way the Police conduct investigations, especially high-profile murder investigations, should be transparent and shared with the public they have a greater duty to protect the public from harm or distress. Therefore, in this case, the balance lies in favour of non-disclosure of the requested 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, the information requested is the personal information of the suspect therefore to disclose this 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 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.

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.

Explanation of the applied exemptions for questions 9&10:

Section 1 of the Freedom of information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at s1(1)(a) is to confirm or deny whether the information specified within a request is held. The second duty at s1(1)(b) is to disclose information that has been confirmed as being held. Where exemptions are relied upon Section 17 of the FOIA requires that we provide the applicant with a notice which:

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

Dyfed-Powys Police can neither confirm nor deny that information is held relevant to questions 9&10 of your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 30(3) Investigations

Section 31(3) Law Enforcement

Section 40(5) Personal Information

This should not be taken as conclusive evidence that any information that would meet your request exists or does not exist.

Section 40 is an absolute exemption which means that the legislators have identified that harm would be caused by any release. In addition, there is no requirement to consider the public interest test. However, with regard to Section 40(5) forces should articulate the Data Protection Principle which would be breached by confirming whether information is or isn't held. In this case, it would be the first principle that is breached inasmuch as personal information must be fairly and lawfully processed.

Section 30 is a class based qualified exemption which means the public interest must be considered. With Section 31(3) being prejudiced based qualified exemption, there is a requirement for us to evidence harm in confirming or denying information is held and also consider the public interest.

Harm in complying with s1(1)(a) – to confirm or not whether information is held

Questions 9&10 ask specifically for information (aka intelligence) that has been provided to the Police Service in confidence by individuals. The public expect police forces and other law enforcement agencies to use all powers and tactics available to them in their endeavour to prevent and detect crime or disorder and maintain public safety. There are a number of tactics available for gathering intelligence including, as in this case, recorded information that is provided by members of the public when they contact Dyfed Powys Police force of their own volition.

The [College of Police APP Information Management Module](#) is a national standard adhered to by all police forces across England and Wales. Police Information refers to all information obtained, recorded or processed for a policing purpose and includes information which is processed (known as data, including personal data) and information which has been subject to a process of evaluation (known as intelligence). It is a business process with an intention to provide focus to operational police and to achieve a disproportionately greater impact from the resources applied to any problem. It is dependent on a clear framework of analysis of information and intelligence allowing a problem solving approach to law enforcement and crime prevention techniques.

The Police Service would never confirm or deny whether information has been supplied by members of the public relating to a named individual or not, whoever that individual may be, unless there is genuine operational reason to do so. If Dyfed Powys Police force reveals information, by confirming information is held (by citing an exemption) or, conversely, stating no information is held, that in itself reveals information about a named individual and would undermine the above APP.

In addition, the flow of information (intelligence) into Dyfed Powys Police force could be compromised which would have an impact on our ability to collect reliable and accurate intelligence resulting in more costly and time consuming methods of collecting information. In addition, confirmation or denial has potential to undermine ongoing operations, investigations as well as any future judicial process. Finally, and more importantly, any disclosure which would undermine an investigation would also compromise the health and safety of an individual placing them in danger.

Public Interest Considerations

Section 30 Investigations

Factors favouring complying with s1(1)(a) - Confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that Dyfed Powys Police force robustly investigate crime. This fact alone may encourage individuals to provide intelligence in order to assist with investigations and promote public trust in providing transparency and demonstrating openness and accountability into where the police are currently focusing their investigations.

Factors against complying with Section 1(1)(a) - Confirmation or denial that information is held would suggest Dyfed Powys Police force take their responsibility to appropriately handle and manage intelligence supplied to them flippantly.

Under FOI there is a requirement to comply with s1(1)(a) and confirm that information is held. In some cases it is that confirmation, or not, which could disclose facts which would undermine the investigative process and in such cases Dyfed Powys Police force takes advantage of its ability under FOI legislation to, where appropriate, neither confirm nor deny that information is or is not held.

Irrespective of what information is or isn't held regarding questions 9&10, any information which could be used to undermine prosecutions or aid offenders is not in the public interest.

Section 31 Law Enforcement

Factors favouring complying with Section 1(1)(a) confirming information is held - Violence against women is an extremely emotive subject, even more so in the current climate following the tragic murder of Sarah Everard. There are lot of protests and campaigning ongoing into this subject as well as a vast amount of journalistic material in the public domain and this in itself favours confirmation or denial. Please see below examples:

[Anmesty International](#)
[End Violence against Women](#)
[BBC News article](#)

Factors against complying with Section 1(1)(a) neither confirming nor denying that information is held - Dyfed Powys Police force has a duty of care to the community at large and public safety is of paramount importance. If an FOI disclosure reveals information to the world by not adopting an NCND position, this action would compromise the effective delivery of operational law enforcement as detailed in the harm above.

Dyfed Powys Police relies on information being supplied by the public. Irrespective of what information is or is not held, by applying substantive exemptions would indicate that information is held and therefore reveal personal information about an individual. Such action would act as a deterrent to the public to provide intelligence to the force and would not be in the public interest.

Balance Test

The points above highlight the merits of confirming or denying that information pertinent to questions 9&10 exists. The Police Service relies heavily on the public and other law enforcement agencies providing information. The public has an expectation that any information they provide will be treated with confidence and in line with the APP Information Management Module. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence other agencies and individuals have in the Police Service. The effective delivery of operational law enforcement takes priority and is at the forefront of Dyfed Powys Police force to ensure the prevention and detection of crime is carried out and the effective apprehensive or prosecution of offenders is maintained.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for Neither Confirming Nor Denying that information is held for questions 9&10 is appropriate in this case.

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. 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 08/02/22)