

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 June 2022

**Public Authority:** Gwent Police

**Address:** [FOI@gwent.police.uk](mailto:FOI@gwent.police.uk)

### Decision (including any steps ordered)

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1. The complainant requested various information passed to Gwent Police from the National Fraud Intelligence Bureau. Gwent Police refused the request referring the complainant to the City of London Police as the owners of the data.
2. The Commissioner's decision is that Gwent Police holds the requested information for its own purposes, as defined under section 3(2)(b) FOIA, and has failed to comply with its obligations under section 1(1) FOIA.
3. The Commissioner requires Gwent Police to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the complainant either providing the information or issuing a valid refusal notice.
4. Gwent Police must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

### Request and response

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5. On 26 June 2021, the complainant wrote to Gwent Police and requested the following information:

“Request 1

For each month in the financial years 2019/20 and 2020/21, please provide the number of reports passed to you from the National Fraud Intelligence Bureau (NFIB) to investigate.

## Request 2

Please provide the number of individuals charged with offences in connection with the reports identified in Request 1.”

6. Gwent Police responded on 10 August 2021. It advised the complainant to refer their request to the City of London Police who would be able to provide this data, including a hyperlink for the complainant’s convenience.
7. Following an internal review Gwent Police wrote to the complainant on 17 August 2021. In this reply it stated that the data he was requesting was not owned by Gwent Police and would be NFIB data and at this stage advised the complainant to contact City of London Police/ NFIB directly. It added:

“Unfortunately forces cannot provide data owned by NFIB. Any data concerning NFIB can only be supplied by NFIB themselves as it is their data.”

## Scope of the case

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8. The complainant contacted the Commissioner on 28 August 2021 to complain about the way their request for information had been handled. They stated that they did not think Gwent Police had handled their request appropriately and believe it does hold the requested information.
9. The scope of the Commissioner’s investigation is to consider if Gwent Police holds this information, and if so, whether it is held for its own purposes or on behalf of another person as specified under section 3(2) FOIA.

## Reasons for decision

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### Section 1 and section 3(2)(b)

10. Section 1 FOIA states that any person making a request for information is entitled to be told whether the public authority holds the information, and if held, to be provided with it (unless an exemption applies).
11. Gwent Police has not at any point disputed that they hold this information, but have referred the complainant to the City of London Police / NFIB on the basis that NFIB are the owners of the information.

12. The key question here is whether Gwent Police hold this information for its own purposes, or only on behalf of NFIB as specified under section 3(2)FOIA.

13. Section 3(2) sets out two legal principles that establish whether the information is held for the purposes of FOIA:

“For the purposes of this Act, information is held by a public authority if

- (a) it is held by the authority, otherwise than on behalf of another person, or
- (b) it is held by another person on behalf of the authority”

14. The Commissioner’s guidance (link provided below) in respect of section 3(2)(b) explains the circumstances in which information is to be considered held by a public authority for the purposes of FOIA.

[https://ico.org.uk/media/for-organisations/documents/1148/information\\_held\\_by\\_a\\_public\\_authority\\_for\\_purposes\\_of\\_foia.pdf](https://ico.org.uk/media/for-organisations/documents/1148/information_held_by_a_public_authority_for_purposes_of_foia.pdf)

15. The guidance outlines the following factors which would indicate that the information is held solely on behalf of another person.

- “the authority has no access to, use for, or interest in the information;
- access to the information is controlled by the other person;
- the authority does not provide any direct assistance at its own discretion in creating, recording, filing or removing the information; or
- the authority is merely providing storage facilities, whether physical or electronic.”

16. The guidance also outlines the countervailing factors which would indicate the information is held by the public authority for its own purposes and include:

- “the authority provides clerical and administrative support for the other person, whether legally required to or not;
- the authority controls access to the information;

- the authority itself decides what information is retained, altered or deleted;
  - the authority deals with enquiries about the information; or
  - costs arising from holding the information are included in the authority's overall budget."
17. The Commissioner therefore contacted Gwent Police stating it appeared to him that that the information passed to Gwent Police by NFIB would be for it to use in its decision making, including as referenced in the wording of the request on whether to charge individuals in connection with the information.
  18. Gwent Police responded that the data is reported to Action Fraud by members of the public and then reviewed by the City of London Police to determine the viability of further investigation by the relevant police force area.
  19. By way of explanation, Action Fraud is the UK's National Fraud reporting centre, whereas NFIB is a police unit in the UK responsible for gathering and analysing intelligence in respect of fraud and financially motivated cyber crime. NFIB sits alongside AF within the City of London Police which is the National policing lead for economic crime.
  20. NFIB receives all of AF's reports, which its experts assess and analyse. In turn, the reports are sent to local police forces or law enforcement agencies for investigation.
  21. Based on the above, Gwent Police holds this information with a view to investigate possible cases which may require further law enforcement action. That Gwent Police holds this information and uses it for this purpose in the Commissioner's view clearly differentiates it from the situation described in his guidance of information that "the authority has no access to, use for, or interest in". The Commissioner's decision is, therefore, that Gwent Police holds the requested for its own purposes. At paragraph 3 above it must now provide a fresh response to the complainant's request and either provide the information or issue a valid refusal notice.

## Right of appeal

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22. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Catherine Dickenson**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**