

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 10 February 2023

**Public Authority:** Chief Constable of Greater Manchester Police

**Address:** GMP Headquarters  
Central Park  
Northampton Road  
Manchester  
M40 5BP

### **Decision (including any steps ordered)**

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1. The complainant requested information from Greater Manchester Police (the public authority). The Commissioner's decision is that the public authority is entitled to rely on section 40(5B) (personal information) of FOIA to refuse to confirm or deny whether any information is held.
2. The Commissioner does not require the public authority to take any steps.

### **Request and response**

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3. On 25 April 2022, the complainant made the following request for information to the public authority:

"[...]"

My request:

Could Greater Manchester Police please confirm that an incident occurred and was reported to Greater Manchester Police on 16th November 2021 and was allocated the crime reference number;

[CRIME REFERENCE NUMBRE REDACTED]

And could Greater Manchester Police please confirm that the incident was reported as a car jacking and assault.

For clarification, I am not asking for any private identifying information, such as, name of victim(s) or persons involved, address etc.”

4. The public authority refused to confirm or deny holding the requested information.

## **Reasons for decision**

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### **Section 40(5) - personal data**

5. This reasoning covers whether the public authority was correct to apply section 40(5B) of FOIA to the request.<sup>1</sup>
6. Section 40(5B) of FOIA allows a public authority to refuse to confirm or deny that it holds particular information if the mere act of confirming (or denying) that information is held would, in itself, reveal personal data about an identifiable individual and would contravene one of the data protection principles.
7. In this case, the Commissioner is satisfied that confirming or denying whether information is held would identify third party personal data because crime reference numbers are unique references given to the victim or person involved in a crime or incident so they can access the details of the crime or incident as well as their personal information.
8. In the case of a FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed – or as in this case the public authority can only confirm whether or not it holds the requested information - if to do so would be:
  - a. lawful (i.e. it would meet one of the conditions of lawful processing listed in Article 6(1) UK GDPR);
  - b. fair; and
  - c. transparent.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

9. The Commissioner recognises that individuals have a clear and strong expectation that their personal data will be held in accordance with data protection laws. . In this case, he is satisfied that the individuals concerned would not reasonably expect the public authority to confirm to the world at large whether or not it held the requested information relating to a possible crime or incident in response to a FOIA request.
10. He has also determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms, and that confirming whether or not the requested information is held would not be lawful.
11. As there is no lawful basis for doing so, confirming or denying would be unlawful and therefore the public authority is entitled to rely on section 40(5B) of FOIA to neither confirm nor deny that the requested information is held.

**Right of appeal**

12. 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)

13. 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.
14. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**