

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

### **Decision notice**

**Date:** 16 March 2023

**Public Authority:** Chief Constable of Dorset Police  
**Address:** Winfrith  
Dorchester  
Dorset  
DT2 8DZ

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

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1. The complainant has requested information about meetings where police injury pensions were discussed. Dorset Police disclosed all the information it said it held which fell within the request's scope.
2. The Commissioner's decision is that, on the balance of probabilities, Dorset Police does not hold any further information in relation to this request. However, Dorset Police breached sections 1(1)(b) and 10(1) of FOIA by disclosing some information outside of the statutory time for compliance.
3. The Commissioner requires no steps as a result of this decision.

#### **Background**

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4. The Commissioner understands that the Police (Injury Benefit) Regulations 2006 ("the PIBR") provide for a pension to be paid for life to ex-officers who have become permanently disabled as a result of injuries sustained in the line of duty. This injury benefit is in addition to their standard police pension. The injury benefit is intended to compensate them for loss of potential future earnings because of their injury.

5. Regulation 37 of the PIBR provides for a police authority to consider, at suitable intervals, whether the degree of a pensioner's disablement has altered, and if it has, whether the injury benefit should be adjusted accordingly.

## **Request and response**

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6. On 28 February 2022, the complainant wrote to Dorset Police about its response to a request for information submitted by a third party, concerning injury benefit reviews (the full text of the complainant's letter is reproduced in the annex at the end of this decision notice). He requested information in the following terms:

"On the 26th September 2021 [third party's name redacted] made a Freedom of Information request to you regarding the introduction of a program of reviews that Dorset have undertaken in relation to regulation 37 of The Police (Injury Benefit) Regulations 2006.

One of the questions that [name redacted] asked was as follows -

'A copy of any record (e.g. agenda, minutes) of any meeting/s held from January 2020 to date where police injury pensions were discussed. Please include any relevant records held from meetings of the south west region police pensions board.'

...

You provided no documents as requested, but chose instead to paraphrase something that was available to you.

...

Please revisit this request and provide as previously request [sic] the actual agendas and minutes of all such meetings in relation to these awards. The decision to implement such a review program would have come at a cost to the force and as such you MUST have documented these decisions.

Please extend the request from the original date until the present day."

7. Dorset Police initially refused to deal with the request, on the grounds that the third party had not expressed any dissatisfaction with the response it had provided to his request. However, the complainant maintained that this should be treated as a new request for information.

8. On 25 March 2022, Dorset Police responded. It refused the request, citing section 21 (Information accessible by other means) of FOIA. It said the information disclosed in response to the previous request for the same information was available on the WhatDoTheyKnow<sup>1</sup> ('WDTK') website and it provided a web link to it.
9. The complainant requested an internal review on 25 March 2022. Following the Commissioner's intervention, Dorset Police provided the outcome on 23 September 2022. Whilst it said that its response to the previous request had provided "relevant information", it disclosed a link to the meetings section of the South West Region Police Pensions Board ('SWRPPB') web site<sup>2</sup>, where it said minutes from all meetings could be found. It also disclosed the following:

"In addition, the topic of police injury pensions was discussed at the Joint Partnership Board meeting on 15 July 2021. There are some documents which I have taken the decision to disclose to you now. Along with this letter, I have attached relevant copies of documents related to that meeting:

1. 00 Agenda\_Redacted
2. 07 Injury on Duty Award Review\_Redacted
3. 07 App E – IOD REVIEW outcome letter

The document titled 07 Injury on Duty Award Review makes mention to a number of appendices. Appendices A, B, C and D were disclosed previously and can be found here:

[WDTK link redacted]

Relevant redactions have been made to documents one and two listed above under Section 40(2) (personal information relating to a third party)".

10. The complainant again told Dorset Police that he believed it held more information.

"You have directed us towards the minutes of the 'South West Region Police Pensions Board Minutes'. As far as we can see, there is only

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<sup>1</sup> <https://www.whatdotheyknow.com/>

<sup>2</sup> <https://www.swpolicepb.co.uk/meeting-minutes-and-reports/>

ONE reference to injury reviews and that is the last paragraph of the minutes dated 2 July 2020...

Nothing further appears in these board minutes to date.

You have provided a document entitled "Joint partnership Group" dated 15th July 2021 which opens with the following paragraph -

"To advise Partnership Group members of the decision to reintroduce an Injury on Duty Award review process within Dorset Police... "

It is clear that at this point a decision has already been taken to conduct your reviews. What discussions took place and by whom between July 2020 and July 2021? You cannot jump from a position where you are considering reviews, to a position where they have been agreed with no process in between."

11. Following the Commissioner's intervention, on 17 November 2022, Dorset Police told the complainant it had identified more information. It disclosed extracts from South West Forces (Devon & Cornwall, Dorset, Gloucestershire and Wiltshire Police) Quarterly Pensions Service Review meetings, comprising brief agenda items, notes and action points. Redactions were again made under section 40(2) of FOIA, for personal data.

12. The complainant remained dissatisfied, stating:

"Multiple agendas of meetings without the minutes is worthless.

You also appears [sic] to have cut and pasted multiple sets of agendas together. We have requested the original documents as we have no idea what has been omitted."

## **Scope of the case**

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13. The complainant contacted the Commissioner on 27 September 2022 to complain about the way his request for information had been handled. He believed that Dorset Police held more records of meetings about injury benefit reviews, which it had not disclosed.

14. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of FOIA. FOIA is concerned with transparency and provides for the disclosure of information held by public authorities.

It gives an individual the right to access recorded information (other than their own personal data) held by public authorities.

15. The right of access only applies to the information a public authority holds. There is no explicit right to copies of original documents<sup>3</sup>. FOIA also does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold. They are also not obliged to disclose information which does not fall within the scope of a request.
16. As per the specific wording of the request, the Commissioner considers it to be for records/minutes of meetings (between January 2020 and March 2022 - including meetings of the SWRPPB) where police injury benefit was discussed, with a particular focus on regulation 37 reviews.
17. When asked to reconsider its handling of the request, Dorset Police forwarded to the Commissioner a small amount of information contained in two SWRPPB meeting minutes, which it said had not been disclosed on the SWRPPB website. It said it believed the information fell outside of the scope of the request, but it was including it for consideration because the request had specifically mentioned SWRPPB meetings. Dorset Police said it believed the information to be exempt from disclosure under sections 42 (Legal professional privilege) and 43 (Commercial interests) of FOIA.
18. Having viewed the information, the Commissioner is satisfied that it falls outside of the scope of the information specified in the request. The complainant has made it clear that he is interested in discussions about injury benefit, and any discussions about reviewing them. The information in the SWRPPB minutes which Dorset Police referred the Commissioner to, did not focus on, or reference, injury benefit provisions or revisions. The Commissioner is satisfied that this information does not fall within the scope of the request and he has not considered it further when reaching a decision on this complaint.
19. The analysis below considers whether, on the balance of probabilities, Dorset Police holds further information which falls within the scope of the request.

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<sup>3</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/the-right-to-recorded-information-and-requests-for-documents/>

20. The complainant did not dispute Dorset Police's application of section 40 to redact names of individuals and so the Commissioner has not investigated this.

## **Reasons for decision**

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### **Section 1 – general right of access**

#### **Section 10 - time for compliance**

21. Under section 1(1) of FOIA, anyone who requests information from a public authority is entitled:
  - (a) to be told if the public authority holds the information and,
  - (b) to have the information communicated to them if it is held, and is not exempt information.
22. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
23. In this case, following the completion of the internal review on 23 September 2022, Dorset Police made a further disclosure of information falling within scope of the request, on 17 November 2022. Dorset Police therefore breached sections 1(1)(b) and 10(1) of FOIA by disclosing information outside of the statutory time for compliance.

### **Section 1 – information held**

24. The complainant believes that he has not been provided with all the information which falls within scope of the request. Dorset Police maintains that it has disclosed all the information it holds.
25. In such cases, it is seldom possible to prove with absolute certainty that there is no further information to add. The Commissioner will, therefore, apply the normal civil standard of proof in determining the case and will decide on the 'balance of probabilities' whether more information is held.
26. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. He will also consider the searches carried out by Dorset Police, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded, and any other relevant information.
27. The complainant's position is as follows:

"It is inconceivable that a Police Pension authority can make a statutory decision to invoke injury reviews without considerable discussion and planning involving numerous departments and stake holders. It may include, but not be limited to the Chief Constable (as Police Pension Authority), a Pension Board or Administrator, Finance Department, Occupational Health and Human resources.

The original request asked for copies of the actual agendas and minutes of such meetings where discussions would have taken place regarding the viability of such review, the process to be adopted, the engagement of an SMP [selected medical practitioner] as well as the agreement on the paperwork, timescales and scope of the exercise."

28. The Commissioner has asked Dorset Police a series of questions aimed at understanding how it had satisfied itself that it held no further information falling within the scope of the request.

29. Dorset Police has explained that:

"The Force has interpreted the request for "any record (e.g. agenda, minutes) of any meeting/s" as records which are created as part of the meeting's administration and organisation, including meeting agenda's [sic], minutes, notes, meeting recordings, and supporting documentation for any discussions held during a meeting."

30. The Commissioner considers that this was a reasonable and objective reading of the type of information the complainant wanted to receive. As to its content, Dorset Police described the focus of its searches for information on meetings where injury benefit was discussed:

"The Alliance Administration and Business Support Department carried out searches within the records of all corporate administrated meetings. In addition, searches were made by the HR Manager, and Police Pensions Lead and Project Manager to identify any additional meetings which may have taken place which sit outside of the corporate structure but within the remit of police pensions.

This is the most relevant and likely places [sic] in which relevant documentation within the scope of the request would be held.

...

The timescale used to establish the scope of this request was 1st January 2020 to 25th March 2022. Electronic meeting records were searched by the Alliance Administration and Business Support Department and Police Pensions Lead and Project Manager. This included looking through all meeting documentation, including agendas, minutes, and meeting discussion papers.

...

All documents related to meetings falling within the specified timeline were searched manually for any reference to injury pensions. These searches were made on the networked drives as well as personally held by the Police Pensions Lead and Project Manager."

31. Dorset Police said that it had checked networked resources and also for any relevant information held locally:

"The former Administration and Business Support Manager (Specialist Support) has confirmed that no documentation sits on their personal PC or physical records, as these are all held within the networked drives. In addition, those working within the Chief Officer team were contacted and asked to carry out searches in case something had been missed previously – nothing was identified as part of these searches.

...

For information falling within the dates of this request, only digital records would be held. The minute takers for corporate meetings use a mix of handwriting and typing to take notes. A process is in place for any handwritten or unrequired notes to be destroyed once the final version of the minutes has been approved, which is usually at the point at which the next meeting is held. As such, final meeting records would be electronic with any manual/paper notes destroyed as per normal processes. Details of this can be found in the attached document titled "Minute Process Check List"."

32. The complainant has described Dorset Police as making "a statutory decision to invoke injury reviews". The Commissioner notes that regulation 37 provides that a police authority "shall...consider whether the degree of the pensioner's disablement has altered". They therefore have the discretion to conduct such reviews, and the word "shall" implies that there is an obligation on them to do so, "at such intervals as may be suitable". In view of this, the Commissioner is not persuaded that a proposal to conduct a benefit review would generate the level of discussion and consultation that the complainant has suggested.
33. The complainant has also expressed concern that some of the disclosures have been extracted from source documents and disclosed in a digest fashion – he would like to see the information in the context of the original documents. However, as set out in paragraph 15, the right provided under FOIA is to information, rather than to copies of original documents, and public authorities are not obliged to disclose information which falls outside of a request's scope.



34. The Commissioner is satisfied, from the evidence he has seen, that the searches conducted by Dorset Police have been reasonable and thorough. He is also satisfied that it has carried out relevant enquiries to establish whether it holds any further recorded information falling within the scope of the complainant's request, and that no further information has been located.
35. Taking all the above into account, the Commissioner finds that, on the balance of probabilities, Dorset Police does not hold further recorded information falling within scope of the complainant's request. Accordingly, he finds no breach of section 1(1)(b) in that regard.

### **Other matters**

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36. The Commissioner cannot consider the amount of time it took a public authority to complete an internal review in a decision notice because such matters are not a formal requirement of FOIA. Rather, they are matters of good practice which are addressed in the code of practice issued under section 45 of FOIA.
37. Nevertheless, his position is that an internal review should be completed within 20 working days from the date it was requested. In exceptional circumstances it may take longer, but in no case should the time taken exceed 40 working days; it is expected that this will only be required in complex and voluminous cases.
38. In this case, Dorset Police took 123 working days to complete the internal review. The Commissioner considers this to be an unreasonable amount of time to conduct an internal review. It is also concerning that the internal review did not result in the disclosure of all the information Dorset Police held, as, following further representations by the complainant, more information was later disclosed to him.
39. On receipt of a request for information, Dorset Police must, at the outset, properly identify the information it holds which falls within the scope of a request (unless the act of doing so would breach the cost limit at section 12 of FOIA). For future reference, the Commissioner's guidance on dealing with FOIA requests can be found at: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>
40. The Commissioner has made a separate record of this matter for monitoring purposes.

## Right of appeal

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41. 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: 0300 1234504

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)

42. 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.
43. 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 .....**

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

## **Annex –text of request**

"On the 26th September 2021 [name redacted] made a Freedom of Information request to you regarding the introduction of a program of reviews that Dorset have undertaken in relation to regulation 37 of The Police (Injury Benefit) Regulations 2006. This can be found here -

[web link redacted]

One of the questions that [name redacted] asked was as follows -

"A copy of any record ( e.g. agenda, minutes) of any meeting/s held from January 2020 to date where police injury pensions were discussed. Please include any relevant records held from meetings of the south west region police pensions board."

Your late response dated the 9th December 2021 included the following -

**-- QUOTE --**

"Please note that whilst no direct mention of the phrase police injury pensions has been picked up, the following item from a Joint Partnership Group has been provided in relation to the subject:

### **15th July 2021: Strategic Issue For Consideration**

To advise Partnership Group members of the decision to reintroduce an Injury on Duty Award review process within Dorset Police and improve the existing review process within Devon and Cornwall Police. The review process will apply only to cases where the Selected Medical Practitioner has made a specific recommendation to review a former Officers award within a defined time scale.

### **Recommendations For Consultation**

Members of the Joint Partnership Group are asked to note the content of this report and the Appendices attached. Dorset Police Federation has already been engaged and will support former officers with the review process.

### **Background information**

Regulation 30 of the Police (Injury Benefit) Regulations 2006 provides for an officer who has retired from the Force on the grounds of ill health (or has retired of their own volition following a determination of permanent disablement) to make a claim for an injury pension. Injury on duty award payments are made to officers to compensate for loss of earnings where a Selected Medical Practitioner (SMP) determines that there is evidence to support the fact that the officer's permanent disablement is the result of an injury on duty.

The degree of disablement is divided into 4 possible bandings:-

1. 0 -25% (lowest)
2. Over 25% - 50%
3. Over 50% - 75%
4. Over 75% - 100% (highest)

Regulation 37 provides for the Police Pensions Authority to review whether the degree of disablement has altered for former Officers in receipt of an Injury on Duty Award 'at such intervals as may be suitable' and where appropriate, revise the pension accordingly. A specific review period may also be recommended by the SMP.

### **Salient Points**

Dorset Police do not currently have a published procedure in place to manage Injury on Duty Award Reviews. Whilst a process is in existence within Devon and Cornwall, areas of improvement have been identified which will enable former officers to be better informed of the procedure and for the SMP to be provided with additional up-to-date and relevant information to inform a decision. Both Forces will be introducing an FAQ document for former officer's subject to review and a new re-assessment questionnaire for completion which will be provided to the SMP to aid the reassessment process. The new documents have been based on Staffordshire Police working practices which were unsuccessfully challenged at a High Court Hearing in September 2020. A subsequent appeal against the Hearing findings has been refused.

At this stage the review process will apply only to cases where the SMP has made a specific recommendation to review a former Officer's award within a defined time scale. It should however be noted that the work undertaken provides scope for both Forces to implement a future review process for all Injury on Duty Awards currently in place, in line with the provisions outlined within Regulation 37 of the Police Injury Benefit Regulations 2006.

The following documentation is included for review:-

Appendix A - Notification of Injury Award Review letter

Appendix B - Re-Assessment Questionnaire

Appendix C - FAQ's

Appendix D - Factors which can affect banding

Appendix E - Outcome letter"

**--- END ---**

You provided no documents as requested, but chose instead to paraphrase something that was available to you.

It is inconceivable that a Police Pension authority can make a statutory decision to invoke injury reviews without considerable discussion and

planning involving numerous departments and stake holders. It may include, but not be limited to the Chief Constable (as Police Pension Authority), a Pension Board or Administrator, Finance Department, Occupational Health and Human resources.

The original request asked for copies of the actual agendas and minutes of such meetings where discussions would have taken place regarding the viability of such review, the process to be adopted, the engagement of an SMP as well as the agreement on the paperwork, timescales and scope of the exercise.

Please revisit this request and provide as previously request the actual agendas and minutes of all such meetings in relation to these awards. The decision to implement such a review program would have come at a cost to the force and as such you **MUST** have documented these decisions.

Please extend the request from the original date until the present day.