

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

### **Decision notice**

**Date:** 23 October 2023

**Public Authority:** Chief Constable of Gwent Police  
**Address:** Headquarters  
Croesyceiliog  
Cwmbran  
NP44 2XJ

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

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1. The complainant has requested, from Gwent Police, information about the number of response and support officers on duty during a specified night shift (8 May 2023).
2. Gwent Police refused to disclose the requested information, citing section 31(1) of FOIA (the law enforcement exemption).
3. The Commissioner's decision is that Gwent Police was correct to rely on section 31(1) of FOIA and refuse disclosure.
4. The Commissioner does not require any further steps as a result of this decision notice.

#### **Request and response**

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5. On 18 July 2023, the complainant wrote to Gwent Police and requested information in the below terms. The request was an amended version of an earlier, wider request:

"... please can you provide data for the following amended request:

1. The total number of response officers on duty in areas covered by Gwent Police during the night shift of **May 8, 2023**.
2. The total number of supporting officers (e.g. those in control rooms, custody suites and other facilities) on duty in areas covered by Gwent Police during the night shift of **May 8, 2023**".
6. Gwent Police confirmed holding relevant information but refused disclosure, citing section 31(1) of FOIA.
7. The response referenced "the prevention and detection of crime", indicating that Gwent Police is relying on section 31(1)(a).
8. Following an internal review, Gwent Police upheld its original decision.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 30 August 2023 to complain about the way their amended request for information of 18 July 2023 had been handled.
10. They disagree with Gwent Police's refusal to provide the requested information.
11. They commented that other police forces have disclosed such information.
12. They emphasised that the request relates to police staffing for a single day only. They consider that they have requested "generalised data" that would show "merely how many officers were working a single shift".
13. The Commissioner considers that the scope of his investigation is to consider whether Gwent Police was entitled to rely on section 31(1)(a) of FOIA to refuse the 18 July 2023 request.
14. The Commissioner has not asked Gwent Police for any submissions or a copy of the withheld information. He considers that in this instance he is able to make his decision without those things.

### **Reasons for decision**

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15. Section 31(1)(a) of FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice the prevention or detection of crime.

16. The exemption, if engaged, is subject to the public interest test.
17. First the Commissioner is satisfied that the envisaged harm relates to the law enforcement interests protected by section 31(1)(a), stated at paragraph 15 above. Gwent Police has expressed concerns about revealing numbers of officers on duty and criminals using such information to their advantage in furthering criminal activity, for example by targeting their efforts. Clearly this relates to the prevention or detection of crime.
18. He is satisfied that the harm is not trivial. Crime is a serious matter, and Gwent Police commented that undermining its ability to prevent and detect crime "can only be considered as being harmful to the public". It is important that crime is prevented or detected.
19. He is satisfied that there is a causal link between disclosure and the harm, and disclosure 'would be likely to' cause the harm, as he explains below.
20. Gwent Police's original response indicates that it is claiming the lower level of likelihood, namely that disclosure 'would be likely to' harm the interests in question. It used words like "could cause harm", "could prejudice" and "likely to undermine", when discussing the impact of disclosure on the prevention or detection of crime. This means there must be a real and significant risk of the harm occurring, even if the risk is less than 50%.
21. As the Commissioner's section 31 guidance<sup>1</sup> explains, when considering the prejudice test, account should be taken of any 'mosaic effect'.
22. The prejudice test is not limited to the harm that could be caused by the requested information on its own. Public authorities can take account of any harm likely to arise if someone pieced together the requested information with other information to form a broader picture.
23. Complying with one request can make it more difficult to refuse requests for similar information in the future. Public authorities are therefore entitled to consider any harm that could be caused by combining the requested information with the information a public authority could subsequently be required to provide, if the current request was complied with.

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-31-law-enforcement/>

24. Such points are clearly relevant to this case, concerning a request for the number of officers on duty during a specified night shift.
25. Whilst the complainant has argued that their request relates to a single shift only, the Commissioner would point out that other similar requests for different shifts or locations, if successful, would likely enable a wider picture to be built.
26. Gwent Police alluded to the mosaic effect, when it explained that “[p]atterns could be drawn which would enable those intent on criminal activities to strategically plan offences ...”.
27. The Commissioner is aware that the complainant has made the same (or a very similar) request to a number of different police forces.
28. The Commissioner also notes that the shift that is the focus of this particular series of requests from the complainant is the night shift of 8 May 2023, the bank holiday for the coronation of King Charles III.
29. The Commissioner would remind the complainant that disclosure under FOIA is ‘to the world’, and not just to the complainant themselves.
30. The Commissioner considers that there is a real and significant risk of disclosure causing the envisaged harm. It is not difficult to imagine criminals using information about the number of police officers on duty at different times or locations to plan their criminal activities, and evade detection.
31. The Commissioner therefore considers that the exemption is engaged.

### **Public interest test**

32. Gwent Police acknowledged factors in favour of disclosure, such as general openness and transparency. It said that disclosure would “inform the public about how public funds are spent”. It also mentioned “better awareness which may reduce crime or lead to more information from the public”.
33. However against disclosure, Gwent Police is concerned about “more crime being committed”, the impact on police resources and the risk to the public.
34. It concluded that the public interest favours withholding the information.
35. The Commissioner recognises that there is a general public interest in promoting transparency and accountability, which must always be given some weight in the public interest test.

36. The complainant has not, in their complaint about Gwent Police, put forward any specific public interest arguments regarding the issue or information that their request relates to.
37. The Commissioner notes that there is already some official information publicly available on [www.gov.uk](http://www.gov.uk) regarding police workforce numbers<sup>2</sup>.
38. He considers that those statistics already go some way to satisfying any public interest there may be in disclosure of the information requested by the complainant under FOIA, and transparency around police staffing.
39. As noted above, the complainant said that other police forces have disclosed such information. Even if that is so, it does not automatically follow that all police forces should disclose it.
40. The Commissioner highlights that there is a very strong public interest in protecting the ability of public authorities to enforce the law.
41. The Commissioner considers that on balance, the factors against disclosure have greater weight and the public interest lies in maintaining the exemption.

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<sup>2</sup> <https://www.gov.uk/government/collections/police-workforce-england-and-wales>

## Right of appeal

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42. 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)

43. 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.
44. 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 .....**

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