



Mae'r ddogfen hon ar gael yn Gymraeg yn ogystal â Saesneg.

This document is available in Welsh as well as English.



COMISIYNYDD
HEDDLU A THROSEDDU
DYFED-POWYS
POLICE AND CRIME
COMMISSIONER

FOI Ref: OPCC 33-16

Request:

In terms of the freedom of information Act I hereby request the following information:

1. Does the Chief Constable (and other Chief Police Officers in your force / constabulary) have a contract with the Police and Crime Commissioner / Police Authority or equivalent?
2. If yes – what specific contractual matters are detailed therein (for each chief officer)?
3. If unwilling to identify the specific contractual terms therein, please provide details of the broad terms and conditions detailed therein for each chief officer (for example does the contract provide for private medical insurance / “golden hello” payments or other inducements)
4. Details of any payments, reimbursements or allowances paid or made to each of your chief officers, other than those explicitly permitted in police regulations.
5. In addition I would be obliged if you could provide details of any statutory authority that permits the Police and Crime Commissioner / Police Authority or equivalent to enter into any contracts as detailed in this request, with chief officers.

Please provide all details for the past 5 years.

Response 1:

I can confirm that the Office of the Police and Crime Commissioner does hold the information requested. I can confirm that the Current Chief Constable as well as the previous Chief Constables who have held the post over the past 5 years has had a contract with the Police and Crime Commissioner/Police Authority.

However I can confirm that there is no information held by the Office of the Police and Crime Commissioner in relation to other Chief Officers due to the fact that in November 2012 with the enactment of the Police Reform and Social Responsibility Act, the employment duties of the Police Authority in relation to Deputy Chief Constables (DCCs) and Assistant Chief Constable (ACCs) transferred to Chief Constables. As a consequence information may be held by the Chief Constable of Dyfed-Powys Police in relation to other Chief Officers.

Response 2:

I can confirm that the Office of the Police and Crime Commissioner does hold the information requested in respect of Chief Constables over the last 5 year period, however a section 40 (2) personal Information exemption has been applied to some of the requested information (i. e. two specific letters of appointment containing individual contractual details) thereby exempting its release. *(Please see details of the harm and Public interest test in relation to the application of the exemption as outlined below)*

Rationale for the application of the exemption:

Section 1 of the Freedom of Information Act 2000 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 the Freedom of Information Act 2000 requires Dyfed Powys Police, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

I can confirm that Dyfed-Powys Police holds the information that you have requested. However, I can confirm that we are withholding some of that information since we consider that the following exemption applies to it:

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 would breach any of the data protection principles contained within Part 1 of Schedule One under Section 4 (1) and (2) of the Data Protection Act 1998. 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 1998 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 1(1)(e) of the Data Protection Act (1998) as:

*“... data which relate to a living individual who can be identified-
(a) from those data, or*

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual. “

Personal data is also defined under the Data Protection Act (1998) as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life. 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 and the Data Protection Act, 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.

Principle One:

“Personal data shall be processed fairly and lawfully and in particular shall not be processed unless

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data at least one of the conditions in Schedule 3 is also met.”

Dyfed-Powys Police would not want to disclose any information that is the personal information of an individual. In this particular case, to release details of a letter and its content in respect of the appointment of a particular individual would be a direct breach of Principle 1 of the Data Protection Act regarding the fair and lawful processing of information. 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 Principle 1 of the Data Protection Principles which is the fair and lawful processing of data, and therefore there is no requirement to carry out a public interest test.

Response 3:

I can confirm that the Office of the Police and Crime Commissioner does hold the information requested in respect of Chief Constables over the last 5 year period. Please see the attached documentation in relation to a letter of Appointment to the Chief Constable Simon Prince, the general Terms and Conditions of Appointment of Chief Constables, Chief Officer Car Scheme, Chief Officer Private Health Care, Chief Officer Relocation package and Information Pack for the Post of Chief Constable Dyfed-Powys Police.

Response 4:

I can confirm that the Office of the Police and Crime Commissioner does hold the information requested in respect of Chief Constables over the last 5 year period, the details of which are as follows:

Year	Rank	Discretionary Allowance	Medical Cover
2015/2016	Not Applicable	£0	£0
2014/2015	Not Applicable	£0	£0
2013/2014	Not Applicable	£0	£0
2012/2013	Chief Constable	£9,753.30	£0
2012/2013	T/Chief Constable	£8,575.36	£528.52
2011/2012	Chief Constable	£9,692.66	£466.49

In accordance with the Freedom of Information Act and under section 16 (Help and Assistance) I have also included the below link which provides access to both the Dyfed-Powys Police and The Office of the Police and Crime Commissioner Annual Statement of Accounts which may be of assistance

<http://www.dyfed-powys.police.uk/en/about-us/financial-information/annual-statement-of-accounts/>

Response 5:

I can confirm that the Office of the Police and Crime Commissioner does hold the information requested in respect of Chief Constables over the last 5 year period. The ability to enter into employment contracts between the Police and Crime Commissioner and a Chief Constable is outlined in section 38 of the Police Reform and Social Responsibility Act 2011 and subject to regulations set out under section 50 of the Police Act 1996. These also apply to the appointment of Deputy Chief Constables and Assistant Chief Constables.

(This is a response under the Freedom of Information Act 2000 and disclosed on 06.09.16)

(This is a response under the Freedom of Information Act 2000 and disclosed on)