

# Freedom of Information Act 2000 (FOIA)

## Decision notice

**Date:** 21 October 2024

**Public Authority:** West Mercia Police

**Address:** Hindlip Hall Police Headquarters  
Hindlip Hall  
Worcester  
WR3 8SP

### Decision (including any steps ordered)

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1. The complainant has requested information regarding corruption-related intelligence from West Mercia Police (WMP). WMP refused to disclose the requested information, citing the exemptions at sections 23(5) and 31(1) (a) and (b) of FOIA as a basis for non-disclosure.
2. The Commissioner's decision is that appropriately applied the exemptions contained in sections 31(1)(a) and (b) of FOIA (law enforcement and the prevention or detection of crime and apprehension and prosecution of offenders) to withhold the information.
3. The Commissioner does not require WMP to take any steps to ensure compliance with the legislation.

### Request and response

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4. On 16 February 2024 the complainant requested the following information from WMP:-

"On page 145 of 'An inspection of vetting, misconduct, and misogyny in the police service' published by HMICFRS it states:

"The Counter-Corruption (Intelligence) APP lists 12 categories of corruption-related intelligence. It is good practice for forces to use these categories when recording intelligence. All forces should do this consistently to help them understand the threats they face."

The categories are listed on page 146:

- Infiltration
- Disclosure of information
- Perverting the course of justice
- Sexual misconduct
- Controlled drug use and supply
- Theft and fraud
- Misusing force systems
- Abuse of authority
- Inappropriate association
- Vulnerability
- Commit, incite, aid and abet, or assist an offender in the commission of a crime and
- Other [corruption-related intelligence not categorised elsewhere].

<https://hmicfrs.justiceinspectrates.gov...>

1. For the year 2022/23, please provide the figures recorded in each of the 12 categories.
2. If you do not use these categories, please provide details of the categories you use and related figures for 2022/23.
5. WMP responded to the request on 20 March 2024, citing sections 31(1)(a) and (b) and 23(5) of FOIA as a basis for non-disclosure.
6. After further correspondence the complainant wrote to WMP on 9 April 2024 with the following revised request:-  
  
"Thank you for your email of 5/4/24.  
  
I wish to revise my request by changing the year from 2022/23 to 2020/21."
7. WMP responded on 25 April 2024 refusing to confirm or deny (section 30(3) of FOIA) whether it held the requested information.
8. The complainant sought an internal review of WMP's handling of the revised request. A response to this was provided on 29 May 2024. The reviewer stated that the original response (applying section 30(3)) was

erroneous and that sections 31(1)(a) and (b) and section 23(5) still applied.

## **Reasons for decision**

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9. The following analysis sets out why the Commissioner has concluded that the public authority was entitled to rely on sections 31(1)(a) and (b) of FOIA in this particular case.
10. Sections 31(1)(a) and (b) of FOIA provide an exemption where disclosure of the relevant information would, or would be likely to, prejudice the prevention or detection of crime and the apprehension or prosecution of offenders.
11. For this exemption to be engaged, disclosure must be at least likely to prejudice these matters.
12. The exemption is qualified by the public interest which means that, if the public interest in maintenance of the exemption does not outweigh the public interest in disclosure, the information must be disclosed.
12. The exemption applies where disclosure "would" or "would be likely" to cause prejudice. According to WMP the prejudice (harm) that would be likely to occur is that, if WMP were to disclose the breakdown of the corruption related intelligence recorded in financial year 2020/21, this would publicise WMP's intelligence picture in this area.
13. WMP considers that such intelligence information would be of use to those who either are corrupt, are seeking to corrupt other officers/employees or wish to engage in criminal or inappropriate/unethical conduct. This information would also assist those that wish to commit criminal offences or engage in inappropriate conduct to continue to do so. This would hinder WMP's ability to prevent/detect crime and apprehend or prosecute offenders.
14. WMP states that by itself this information may seem innocuous, however disclosing this information under FOIA could enable it to be pieced together with other pieces of information about police counter-corruption work and used by those wishing to commit criminal offences, for example an Organised Crime Group (OCG).
15. WMP has also provided the Commissioner with further arguments regarding the application of sections 31(1)(a) and (b) which are confidential and cannot be reproduced in this decision notice.

16. Having perused the requested information and considered all of WMP's arguments, the Commissioner concludes that disclosure of the requested information would be likely to cause the prejudice described in paragraphs 11-14 above. Therefore he considers that the exemption at section 31(1)(a) and (b) of FOIA is engaged. As this is a qualified exemption, the Commissioner has gone on to consider the public interest test.

### **Public interest arguments in favour of disclosure**

17. The main arguments in favour of disclosure are that disclosing this information would allow WMP to be open and transparent about its corruption-related intelligence recorded in financial year 2020/21.
18. WMP also recognises that it is in the public interest that WMP maintains the highest standards of its officers/police staff – integrity is arguably the most important standard of all and disclosure would demonstrate integrity or lack thereof in the specified categories of intelligence.

### **Public interest arguments in favour of maintaining the exemption**

19. The main arguments in favour of maintaining the exemption are that disclosing the requested information – which is intelligence – undermines the very purpose for which it is collected, i.e. to prevent and detect crime and apprehend those responsible.
20. WMP stated that corruption-related intelligence identifies those who are corrupt, are seeking to corrupt other officers/police staff or wish to engage in criminal or unethical conduct. Disclosure of that information would undermine the functions of WMP as set out in sections 31(1)(a) and (b) of FOIA and the ability of WMP to carry out these functions, which would not be in the public interest.

### **Balance of public interest arguments**

21. In balancing the public interest arguments the Commissioner accepts that disclosure would to some extent help to increase openness and transparency of WMP of its corruption-related intelligence, which would inform the public of what information WMP is receiving from different areas and in the various categories listed.
22. However, the Commissioner has also taken into account the harm that could be caused by disclosing the requested information as outlined in paragraphs 12-16 above. Even in category form, disclosing this information would be likely to hinder the ability of WMP to prevent/detect crime or apprehend offenders. This would not be in the public interest.

23. The Commissioner therefore considers that the public interest in maintaining the exemption outweighs the public interest in disclosure.

**Section 23 - Information supplied by, or relating to, bodies dealing with security matters**

24. Section 23(5) provides an exemption from the duty imposed by section 1(1)(a), to confirm or deny whether information is held, if to do so would involve the disclosure of information, whether or not recorded, that relates to or was supplied by any of the security bodies listed in section 23(3). This is a class-based exemption, which means that if the confirmation or denial would have the result described in section 23(5), this exemption is engaged.
25. WMP sought to apply the exemption at section 23(5) of FOIA to neither confirm nor deny (NCND) whether it held any further information relevant to the complainant's request.
26. The Commissioner has not considered WMP's application of section 23(5) as it does not apply to information within the scope of the complainant's request, which was for very specific information.

**Right of appeal**

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27. 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)

28. 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.

29. 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 .....**

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