

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

### **Decision notice**

**Date:** 17 March 2025

**Public Authority:** Chief Constable of Northamptonshire Police  
**Address:** Wootton Hall  
Wootton Hall Park  
Northampton  
NN4 0JQ

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

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1. The complainant has requested a list of Chief Constables from 2005 to present. Northamptonshire Police ("the public authority") relied on section 40(2) of FOIA (third party personal information) to withhold some of the information.
2. The Commissioner's decision is that the public authority has not correctly relied on section 40(2) of FOIA to withhold the information it refused to disclose.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Disclose the remainder of the requested information.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 8 July 2024, the complainant wrote to the public authority and requested information in the following terms:

"Under the Freedom of Information Act, I would like to request the following information from your organisation:

A full list of the Chief Constables to have led your force from 2005 to present. This should include (1) their names, (2) their tenure - the month and year they were appointed as Chief Constable and the month and year they left the Chief Constable role, (3) their gender, (4) their ethnicity (where available), and (4) whether they were a substantive or acting chief constable. To be clear, please do include any individuals who served as an acting or temporary chief constable in this period, noting that they were in an 'acting' role.

Please note that public bodies have previously provided exactly this kind of information in response to legitimate FOI requests. This includes the MOD Police publishing a list of their former Chief Constables with their dates in post. [Links provided]."

6. The public authority responded on 2 August 2024. It provided the complainant with some of the information requested, but withheld the names of the Chief Constables who no longer work for the force, relying on section 40(2) of FOIA – personal information.
7. The complainant requested an internal review on the 2 August 2024 and revised their request so that it did not include the demographic data.
8. Following an internal review the public authority wrote to the complainant on 29 August 2024. It stated that it was upholding its original decision to withhold the requested information under section 40(2). It did, however, provide the complainant with additional information on where they may potentially be able to find the requested information.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 29 October 2024, to complain about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to establish whether the public authority is entitled to withhold the requested information under section 40(2) of FOIA

## Reasons for decision

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### Section 40 - personal information

11. Under section 40(2), information is exempt from disclosure if it is the personal data of an individual other than the applicant and disclosure would contravene any of the principles relating to the processing of personal data that are set out in Article 5 of the UK General Data Protection Regulation (UK GDPR).
12. The Commissioner has first considered whether the information the public authority is withholding under section 40(2) can be categorised as other people's personal data.
13. Personal data is defined as information that relates to a living individual and from which the individual can be identified.
14. The information that the public authority is withholding is the names of previous Chief Constables no longer employed. The Commissioner acknowledges that this is personal data, where an individual can be identified, however, these individuals have been in a public facing, highly senior role.
15. The Commissioner has considered the public authority's position but is not persuaded that disclosing the names of the individuals who have previously been the Chief Constable would breach data protection.
16. It is necessary to balance the legitimate interests in disclosure against the data subject's interests or fundamental rights and freedoms. In doing so, it is necessary to consider the impact of disclosure. For example, if the data subject would not reasonably expect that the information would be disclosed to the public under FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.
17. In the Commissioner's view, a key issue is whether the individuals concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as an individual's general expectation of privacy, whether the information relates to an employee in their professional role or to them as individuals, and the purpose for which they provided their personal data.
18. It is reasonable to expect that those individuals would expect that their names would remain public even once they have retired from the role/police force itself. Additionally, there are articles published online, where these individuals are referred to.

19. The Commissioner has also considered whether disclosure would be likely to result in unwarranted damage or distress to the individuals concerned. He considers that the individuals have a reasonable expectation that their names would remain in the public domain. Indeed, the position of Chief Constable is extremely senior and even retirees who held the position previously might be called to answer a public enquiry or a historic investigation, much of which may well be in the public domain.
20. The Commissioner is also aware that some of the information that has been withheld by the public authority is available online. The public authority has also provided the complainant with some information and explained that the names they are seeking are also available via online articles, albeit not articles "held" by the public authority. The public authority did not rely on section 21 of FOIA, however, and the veracity of websites such as Wikipedia, to which it referred the complainant, is open to question.
21. The Commissioner notes that the public authority considers that this is a private concern for the complainant. However, as the individuals concerned are public servants, who will frequently speak publicly when they are employed in their role, and whose actions will have consequences for the wider communities that they serve, he considers that there is a legitimate interest for the wider society.
22. The Commissioner cannot see what damage or distress disclosure of the requested information would cause the data subjects. The requested information for many will already be known to numerous people as a result of the work and tasks they perform/performed. The individuals signed up to a senior public facing role and it is therefore reasonable to expect that their names will remain in the public domain.
23. The Commissioner considers that the public authority has made very weak arguments in favour of withholding the remaining names under section 40 of FOIA. The public authority has not demonstrated how any harm whatsoever could be caused by disclosure and, in the absence of a formal application of section 21 to direct the complainant to a verified source for the information, it stands that the public authority should provide the information directly in response to this request. In the absence of arguments to the contrary, the Commissioner considers that the complainant is pursuing a legitimate interest which it is necessary to address under FOIA.
24. Based on the above factors, the Commissioner has determined that there is sufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore

considers that there is an Article 6 basis for processing and so the disclosure of the information would be lawful.

## Right of appeal

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25. 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)

26. 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.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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