



November 2016

Our ref: FOI 003490/16

I write in connection with your request for information received by both Norfolk and Suffolk Constabularies on the 23<sup>rd</sup> September 2016. This response is being provided on behalf of Norfolk and Suffolk Constabularies as a result of ongoing collaboration. In your requests you sought access to the following information:

Since 1st May 2015 until 1st May 2016 please the following information

- 1 How Many Misconduct hearings and special case hearings were held in public
- 2 The details and outcome of each of those hearings
- 3 How many members of the public requested to attend each hearing or give a over all figure of the number of members of the public (excluding press) who have attained Misconduct hearings and special case hearings in the time period expressed above if you do not hold the information broken down by each hearing
- 4 How many Misconduct hearings and special case hearings were not held in public from the total number that could have been held in public and the reason for them not being held in public
- 5 In the location where Misconduct hearings and special case hearings are held what is the seating capacity for members of the public

Norfolk and Suffolk Constabularies holds information relevant to your request.

### **Response to your request**

The following information has been located as relevant to your request.

Q1

	Hearings Held in Public
Norfolk	1
Suffolk	1

Q2

	Hearing Outcome
Norfolk	A Police Constable appeared for Other Assault. The allegation was not proven.
Suffolk	A Police Constable appeared for Discreditable Conduct. The Officer was dismissed.

Please see below details of the allegations in respect of the two above cases. Personal information relating to the complainant's has been removed due to exemptions within the Act.

Section 17 of the Freedom of Information Act 2000 requires that Norfolk and Suffolk Constabularies, when refusing to provide information (because the information is exempt) is to provide you, the applicant, with a refusal notice which:-

- a. States that fact;
- b. Specifies the exemption(s) in question and;
- c. States (if that would not otherwise be apparent) why the exemption(s) applies.

The information is exempt from disclosure by virtue of the following exemption:-

- Section 40(2) – Personal Information

Section 40(2) – whilst section 40 is a class based absolute exemption and there is no requirement to consider the harm or public interest, there is a requirement under sub-section 40(2), if the information requested relates to a third party, to articulate why disclosure would breach the Data Protection Act principles. The exemption at section 40(2) is relevant if the release of the personal information would be a breach of any of the 8 principles of the Data Protection Act 1998.

Personal data means data that relates to a living individual who can be identified from that data or from that data and other data that is in the possession of, or likely to come into the possession of, the data controller.

Principle 1 of the Data Protection Act states that personal data shall be processed fairly and lawfully.

The latest advice from the Information Commissioner, when applying the exemption at section 40(2), is to firstly consider fairness. Fairness relates to consideration of expectation and consequences in relation to the use of a person's personal data.

To reveal information via the Freedom of Information process, leading to the identification of an individual, would not be considered 'fair'. When it is released, the information is published by Norfolk and Suffolk Constabularies on the respective websites. The information which has been redacted refers to both complainants and other parties involved in these incidents. It is reasonable to assume that they would not expect their details to be released under the FOIA and would expect their details to be kept confidential and in accordance with the Data Protection Act.

Whilst some of the information may be available via press articles in the media, it would not be appropriate for the Constabularies to continue to release details, which will be published on the force websites for an indefinite period of time.

On the basis that personal data into the public domain, that could be linked to a living individual in a way that they would not expect, would not be fair and would be a breach of principle 1. This response letter serves as a refusal notice under section 17(1) of the Freedom of Information Act by virtue of the application of the exemption at section 40(2) of the Act, for these parts of your request.

This is to notify you that the investigation into the allegation(s) of an alleged breach of the Standards of Professional Behaviour made against you has been completed and a determination has been made that there is a case to answer:

- In respect of gross misconduct and the allegation(s) have been referred to a misconduct hearing

The details of your conduct that it is alleged may have breached the Standards of Professional Behaviour can be found below.

- 1) On Friday 13 February 2015 you attended an urgent call for assistance from PC 438 Darren Cunningham at **(exempt section 40)** Great Yarmouth. This was the home address of **(exempt section 40)**. PC Cunningham was attempting to arrest **(exempt section 40)**'s partner, **(exempt section 40)**.
- 2) When you arrived at the house you and other officers joined PC Cunningham and **(exempt section 40)** in an upstairs bedroom where you helped those officers gain control of and restrain **(except section 40)**.
- 3) After **(exempt section 40)** had been brought substantially under control, and in the presence of other officers, you assaulted him by forcibly raising his head and then hitting it against the handcuffs in which he was being restrained. You did this more than once and your actions caused **(exempt section 40)** physical injury.
- 4) In acting as aforesaid you breached the Standard of Professional Behaviour which requires all police officers only to use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.
- 5) You have also breached the Standard of Professional Behaviour relating to discreditable conduct as a gratuitous assault by a constable on a detainee is likely to discredit the Norfolk Constabulary and seriously undermine public confidence in it.
- 6) Your breaches of the Standards of Professional Behaviour are so serious that your dismissal from the Constabulary would be justified and, as such, have been assessed as amounting to gross misconduct.

It has been determined that this allegation(s) should be heard at a misconduct hearing because it is an allegation of gross misconduct.

1. This is to notify you that the investigation into the allegations of alleged breaches of the Standards of Professional Behaviour made against you has been certified as a special case and has been referred to a special case hearing.
2. The details of your conduct that it is alleged have breached the Standards of Professional Behaviour are:
3. In March 2015 you were working as part of Suffolk Constabulary's contribution to the "180° Integrated Offender Management" programme within Suffolk. Part of your job was to provide support to serious offenders who had been assessed as being at high risk of reoffending.
4. In this role you were made the principal point of contact for **(exempt section 40)**, a prolific young offender, who was released from prison in early **(exempt section 40)**.
5. By **(exempt section 40)** 2015 you had embarked on a covert sexual relationship with **(exempt section 40)** which continued for several weeks **(exempt section 40)**.
6. By acting in this way, you compromised your position as a police officer and failed to act with the integrity expected of every police officer under the Standards of Professional

Behaviour.

7. Irrespective of your role in the 180° programme, a personal sexual relationship with a known prolific and serious offender is a disclosable association as defined in paragraph 2.1 of the Norfolk & Suffolk Constabularies' 'Disclosable Associations' policy (in force from 12 June 2014). Pursuant to paragraph 4.1 of the policy you were under an immediate obligation to disclose your association with **(exempt section 40)** to your Professional Standards Department. You did not do so.
8. By failing to do so you breached the Standard of Professional Behaviour that requires all police officers to abide by force policies.
9. Furthermore, such conduct by you as a police officer in such circumstances discredits the police service as a whole and undermines the confidence of the public in Suffolk Constabulary.
10. Your breaches of the Standards of Professional Behaviour are so serious that your dismissal from the Constabulary would be justified and, as such, have been assessed as amounting to gross misconduct.
11. It has been determined that this conduct amounts to an extremely serious breach of the Standards of Professional Behaviour contained within Schedule 2 to the Police (Conduct) Regulations 2012, and therefore amounts to gross misconduct:
12. It has been determined that the allegations should be heard at a special case hearing because the special conditions are satisfied. The special conditions are:
  13. there is sufficient evidence, in the form of written statements or other documents, without the need for further evidence, whether written or oral, to establish on the balance of probabilities that your conduct constitutes gross misconduct; and
  14. it is in the public interest for you to cease to be a police officer without delay.
15. The special case hearing will be chaired by Chief Constable Gareth Wilson at 10.00am on 15 September 2015 at Suffolk Constabulary Headquarters.

Q3 No members of the public requested to attend.

Q4

	Hearings Not Held in Public	Reason
Norfolk	2	Conducted under previous regulations
Suffolk	1	Conducted under previous regulations

Q5 There are venues in each Constabulary with varying capacity up to approximately 20 people. Video link facilities are available if required. Outside venues, with greater capacity, can be sourced if needed.

Additional information

Further details regarding misconduct hearings can be found on the Constabularies websites via the links provided below:-

[www.suffolk.police.uk/about-us/our-policies/misconduct-hearings](http://www.suffolk.police.uk/about-us/our-policies/misconduct-hearings)

[www.norfolk.police.uk/about-us/our-policies/misconduct-hearing](http://www.norfolk.police.uk/about-us/our-policies/misconduct-hearing)

Misconduct and disciplinary outcomes are also published under the 'Significant Public Interest' section of the publication scheme. Again, this can be accessed via the links provided below:-

<https://www.norfolk.police.uk/about-us/our-data/publication-scheme>

<https://www.suffolk.police.uk/about-us/our-data/publication-scheme/significant-public-interest>