



January 2019

Freedom of Information Request Reference N^o: FOI 004531/18

I write in connection with your request for information received by Norfolk Constabulary on the 11th December 2018 in which you sought access to the following information:

How many officers and/or staff have been investigated and faced disciplinary hearings/proceedings for misconduct or gross misconduct for misuse of the force email system - i.e. staff or officers using some form of emails which were suspected to be outside of force policy regarding use of police email accounts.

- 1 I would like to know the department or unit of the police that any nominals worked for and whether they were staff or an officer.
- 2 I would also like to know which month and year each proceeding was finalised.
- 3 I would like to know whether the nominal was investigated for gross misconduct or just misconduct
- 4 I would also like to know the outcome of any proceedings taken against police staff or officers in regard to this matter.

I would like data on this related to the previous ten years from 2008 up to the present day. If this length of time is not possible, five years or whatever shorter period of time which is available would be acceptable to me.

Response to your Request

The response provided below is correct as of 3rd January 2019.

Norfolk Constabulary has located the following information as relevant to your request.

Research has been undertaken of records relating to inappropriate use of the Constabulary's email to identify cases which resulted in misconduct/disciplinary proceedings. The period research was 1st January 2008 to 12th December 2018. It should be noted that in many cases listed below, the assessment of whether it was misconduct or gross misconduct depended on the severity of the breach and whether there were other issues taken into consideration. Equally, the outcome may have taken into account other matters for which the officer of staff member had attended the misconduct/disciplinary proceedings.

Officer/Staff	Department	Year Proceedings finalised	Investigated for Misconduct / Gross Misconduct	Summary	Outcome
Officer	County Policing Command	2009	Gross misconduct	Sent email containing inappropriate comments	Final Written Warning
Officer	Contact and Control Room	2010	Misconduct	Sent email containing inappropriate comments	Management Advice
Officer	County Policing Command	2011	Gross misconduct	Sent an email containing personal data to a non-police	Written Warning

				email address	
Officer	Protective Services	2011	Misconduct	Sent email containing inappropriate comments	Written Warning
Police Staff	Protective Services	2011	Gross misconduct	Used Force email excessively for personal use	Written Warning
Police Staff	Contact and Control Room	2011	Misconduct	Used Force email excessively for personal use	Written Warning
Officer	County Policing Command	2013	Misconduct	Sent email containing inappropriate content	Written Warning
Police Staff	Protective Services	2017	Gross misconduct	Sent personal emails from force email account	Written Warning
Police Staff	Support Services	2017	Misconduct	Sent personal emails from force email account	Written Warning
Police Staff	Joint Justice Command	2018	Gross misconduct	Sent an email containing personal data to a non-police email address	Final Written Warning
Police Staff	County Policing Command	2018	Gross misconduct	Inappropriate use of force email	Written Warning
Police Staff	Protective Services	2018	Misconduct	Sent email containing inappropriate comments	Written Warning
Police Staff	Protective Services	2018	Gross misconduct	Sent email containing inappropriate comments	Resigned prior to hearing – would have been dismissed

To ensure that no officer or member of staff can be identified, the month of the outcome has not been provided. Section 1 of the Freedom of Information Act 2000 (FOIA) 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.

Section 17 of the Freedom of Information Act 2000 requires that Suffolk Constabulary, when refusing to provide such information (because the information is exempt) is to provide you, the applicant, with a 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(s);

- **Section 40(2) – Personal Information**

Section 40 is an absolute; class based exemption and applies to third party personal data. This would not be released under the FOIA unless there is a strong public interest. This is because any release would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third party personal data, is exempted unless there is a strong

public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act 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.

Principle A of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. In this case the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel principle A would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments.

This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.