



Freedom of Information Request Reference N°: FOI 001917-20

I write in connection with your request for information received by Suffolk and Norfolk Constabularies on 8 June 2020 which you sought access to the following information:

"I would like to ask about officers accused of misconduct, breaches in professional standards and criminal offences for each tax year starting from April 2015 up to April this year.

For each year please tell me:

- 1. How many officers were accused of wrongdoing and what they were accused of. Please provide a breakdown by rank.*
- 2. Please specify if they were accused of a sexual offence.*
- 3. Please specify if they were accused of racism.*
- 4. Please specify if this was a complaint from a member of the public or an internal referral.*
- 5. Please tell me the outcome in each case with rank included.*
- 6. For each year please tell me if the accused officer left the force before the investigation was completed. Please give the reason for them leaving. Please tell me if the investigation was continued after the officer left. What was the outcome for each officer who left for each year? Please include what they had been accused of.*
- 7. For each case dropped after an officer left, please tell me what classification it was (ie gross misconduct/misconduct or criminal offence) and what they had been accused of. Please provide rank in each case. Please provide details for each year.*
- 8. For each of the above please provide the figures for officers working in your department of professional standards who were accused of wrong doing.*

9. *Finally, please provide me with details of the serving officer who has had the most misconduct and/or criminal allegations made against them. Please provide a breakdown of the number of allegations and what they were. What was the outcome of each one. What is their rank?"*

Response to your Request

The response provided below is correct as of 1 July 2020

Suffolk and Norfolk Constabularies have considered your request for information and the response is below.

A review of the conduct cases recorded between 1 April 2015 and 31 March 2020 has been conducted. Public complaint cases where special requirements have been applied (indication that a person to whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings) have also been reviewed.

Please note that the ranks provided include Detective roles, i.e. 'Police Constable' will include ranks of Constable and Detective Constable and so on.

Questions 1 – 5

Please note that the information supplied relates to overt professional standards investigations. The Constabularies can neither confirm nor deny whether there is anything relating to covert investigations and the exemption can be found at the end of the response.

Norfolk Constabulary Data

Year 2015/16

Conduct cases	
Rank	Total
Police Constable	27
Police Sergeant	3
Senior officer	3

Public complaints	
Rank	Total
Police Constable	17
Police Sergeant	3

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	13
Authority, respect and courtesy	7
Confidentiality	1
Orders and instructions	4
Duties and responsibilities	1
Fitness for duty	1
Discreditable conduct	7
Challenging and reporting improper conduct	1

Police Constable – Public complaints	
Allegation	Total
Discriminatory behaviour	2
Improper disclosure of information	4
Incivility, impoliteness and intolerance	3
Irregularity in evidence/perjury	1
Oppressive conduct or harassment	2
Other assault	8
Other neglect or failure in duty	6
Traffic irregularity	1
Unlawful/unnecessary arrest or detention	1

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Duties and responsibilities	1
Discreditable conduct	1

Police Sergeant – Public complaints	
Allegation	Total
Breach Code C PACE	1
Irregularity in evidence/perjury	1
Other assault	2
Other irregularity in procedure	1

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1

Orders and instructions	1
Duties and responsibilities	2
Discreditable conduct	2

Conduct cases	
Sexual offences	Total
Police Constable	1

None related to racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	25
Police Constable	No case to answer	10
Police Sergeant	Case to answer	1
Police Sergeant	No case to answer	2
Senior officers	Case to answer	4
Senior officers	No case to answer	2

Outcome to allegations recorded as public complaints and whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	9
Police Constable	No case to answer	19
Police Sergeant	Case to answer	2
Police Sergeant	No case to answer	3

Year 2016/17

Conduct cases	
Rank	Total
Police Constable	14
Police Sergeant	4
Senior officer	1

Public Complaints	
Rank	Total
Police Constable	14

Police Sergeant	7
-----------------	---

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	6
Authority, respect and diversity	2
Orders and instructions	6
Duties and responsibilities	8
Discreditable conduct	5

Police Constable – Public complaints	
Allegation	Total
Discriminatory behaviour	4
Incivility, impoliteness and intolerance	3
Mishandling of property	1
Oppressive conduct or harassment	1
Other irregularity in procedure	1
Other neglect or failure in duty	8
Unlawful/unnecessary arrest or detention	2

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Authority, respect and diversity	4
Orders and instructions	3

Police Sergeant – Public complaints	
Allegation	Total
Breach Code C PACE	5
Incivility, impoliteness and intolerance	1
Irregularity in evidence/perjury	1
Lack of fairness and impartiality	1
Other assault	2
Other neglect or failure in duty	1

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Discreditable conduct	1

Conduct cases	
Sexual offences	Total
Police Constable	2

No conduct cases related to racism

One public complaint alleged discrimination on the grounds of race

Racism	Total
Police Constable	5

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	20
Police Constable	No case to answer	7
Police Sergeant	Case to answer	7
Police Sergeant	No case to answer	1
Senior officer	Case to answer	1

Outcome to allegations recorded as public complaints whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	6
Police Constable	No case to answer	14
Police Sergeant	Case to answer	1
Police Sergeant	No case to answer	10

Year 2017/18

Conduct cases	
Rank	Total
Police Constable	16
Police Sergeant	3

Public complaints	
Rank	Total
Police Constable	5
Senior officer	2

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	2
Authority, respect and courtesy	1
Orders and instructions	4
Duties and responsibilities	3
Confidentiality	2
Discreditable conduct	6

Police Constable – Public complaints	
Allegation	Total
Incivility, impoliteness and intolerance	2
Other assault	2
Discriminatory behaviour	1
Improper disclosure of information	1

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Orders and instructions	1
Confidentiality	1
Duties and responsibilities	1

Senior officer – Public complaints	
Allegation	Total
Oppressive conduct or harassment	2
Other neglect or failure in duty	1
Traffic irregularity	1
Unlawful/unnecessary arrest or detention	1

None relating to sexual offences

One public complaint alleged discrimination on the grounds of race

Racism	Total
Police Constable	1

Outcome of the breaches of the standards of professional behaviour

Rank	Outcome	Total
Police Constable	Case to answer	10
Police Constable	No case to answer	8
Sergeant	No case to answer	4

Outcome to allegations recorded as public complaints whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	2
Police Constable	No case to answer	4
Senior officer	Case to answer	1
Senior officer	No case to answer	4

Year 2018/19

Conduct cases	
Rank	Total
Police Constable	19
Police Sergeant	5

Public complaints	
Rank	Total
Police Constable	2
Senior officer	1

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	3
Use of force	3
Orders and instructions	1
Duties and responsibilities	5
Confidentiality	3
Fitness for duty	3
Discreditable conduct	8

Police constable – Public complaints	
Allegation	Total
Other sexual conduct	2

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	1
Use of force	1
Orders and instructions	1
Duties and responsibilities	1
Discreditable conduct	1

Senior officer – Public complaints	
Allegation	Total
Improper disclosure of information	1
Irregularity in evidence/perjury	1
Oppressive conduct or harassment	1

None relate to sexual offences or racism

Outcome of the breaches of the standards of professional behaviour

Rank	Outcome	Total
Police Constable	Case to answer	17
Police Constable	No case to answer	9
Sergeant	Case to answer	4
Sergeant	No case to answer	1

Outcome to allegations recorded as public complaints whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	2
Senior officer	No case to answer	3

Year 2019/20

Conduct cases	
Rank	Total
Police Constable	21
Police Sergeant	1
Senior officer	2

Public complaints	
Rank	Total
Police Constable	2

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	3
Authority, respect and courtesy	8
Orders and instructions	2
Duties and responsibilities	5
Confidentiality	5
Fitness for duty	1
Discreditable conduct	6

Police Constable – Public complaints	
Allegation	Total
Improper disclosure of information	2

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	2

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Authority, respect and courtesy	2
Confidentiality	1

Sexual offences - Conduct	Total
Police Constable	1

None relate to racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	17
Police Constable	No case to answer	9
Police Constable	Live investigations	5
Police Sergeant	Live investigations	2

Senior officer	No case to answer	3
Senior officer	Live investigations	1

Outcome to allegations recorded as public complaints whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	No case to answer	1
Police Constable	Case to answer	1

Suffolk Constabulary

Year 2015/16

Conduct cases	
Rank	Total
Police Constable	11

Public complaints	
Rank	Total
Police Constable	4
Police Sergeant	1
Senior officer	1

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	5
Authority, respect and courtesy	4
Orders and instructions	2
Confidentiality	3
Discreditable conduct	3

Police Constable – public complaints	
Allegation	Total
Breach Code C PACE	1
Incivility, impoliteness and intolerance	1
Irregularity in evidence/perjury	1
Oppressive conduct or harassment	1
Other assault	1
Other neglect or failure in duty	1

Unlawful/unnecessary arrest or detention	1
--	---

Police Sergeant – Public complaints	
Allegation	Total
Incivility, impoliteness and intolerance	1
Other neglect or failure in duty	1

Senior officer – Public complaints	
Allegation	Total
Other neglect or failure in duty	1

None relate to sexual offences or racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	13
Police Constable	No case to answer	4

Outcome to allegations recorded as public complaints whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	4
Police Constable	No case to answer	3
Police Sergeant	Case to answer	1
Police Sergeant	No case to answer	1
Senior officer	No case to answer	1

Year 2016/17

Conduct cases	
Rank	Total
Police Constable	28
Police Sergeant	10
Senior officer	1

Public Complaints	
Rank	Total
Police Constable	5

Senior officer	1
----------------	---

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	7
Authority, respect and courtesy	5
Orders and instructions	4
Duties and responsibilities	14
Confidentiality	4
Discreditable conduct	10

Police Constable – Public complaints	
Allegation	Total
Discriminatory behaviour	3
Other assault	1
Other neglect or failure in duty	3

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	3
Honesty and integrity	1
Use of force	1
Orders and instructions	1
Duties and responsibilities	5
Discreditable conduct	1

Police Sergeant – Public complaints	
Allegation	Total
Other assault	1
Other neglect or failure in duty	1

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	1

Senior officer – Public complaints	
Allegation	Total
Other assault	1

Sexual offences - Conduct	Total
Police Constable	2

Racism - Conduct	Total
Police Constable	2
Police Sergeant	1

Two public complaints alleged discrimination on the grounds of race

Racism	Total
Police Constables	3

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	29
Police Constable	No case to answer	12
Police Constable	Live investigation	3
Police Sergeant	Case to answer	8
Police Sergeant	No case to answer	4
Senior officer	Case to answer	1

Outcome to allegations recorded as public complaints and whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	No case to answer	7
Senior officer	No case to answer	1

Year 2017/18

Conduct cases	
Rank	Total
Police Constable	20
Police Sergeant	5

Public complaints	
Rank	Total
Police Constable	3
Police Sergeant	2

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	6
Authority, respect and courtesy	12
Use of force	1
Orders and instructions	1
Duties and responsibilities	5
Confidentiality	3
Discreditable conduct	3

Police Constable – Public complaints	
Allegation	Total
Breach Code A PACE	1
Corrupt practice	1
Other assault	2
Other irregularity in procedure	4

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	2
Equality and diversity	1
Orders and instructions	1
Duties and responsibilities	6
Discreditable conduct	1

Police Sergeant – Public complaints	
Allegation	Total
Other assault	1
Other neglect or failure in duty	1

Sexual offences - Conduct	Total
Police Constable	1

None relate to racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	23
Police Constable	No case to answer	8

Police Sergeant	Case to answer	5
Police Sergeant	No case to answer	6

Outcome to allegations recorded as public complaints and whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	2
Police Constable	No case to answer	6
Police Sergeant	No case to answer	2

Year 2018/19

Conduct cases	
Rank	Total
Police Constable	15
Police Sergeant	2
Senior officer	1

Public complaints	
Rank	Total
Police Constable	3
Police Sergeant	1

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Authority, respect and courtesy	2
Orders and instructions	3
Duties and responsibilities	7
Fitness for duty	1
Discreditable conduct	8

Police Constable – Public complaints	
Allegation	Total
Other assault	3

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	1

Discreditable conduct	1
-----------------------	---

Police sergeant – Public complaints	
Allegation	Total
Other neglect or failure in duty	1

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Duties and responsibilities	1
Discreditable conduct	1

Sexual offences - Conduct	Total
Police Constable	1

None relate to racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	11
Police Constable	No case to answer	10
Police Constable	Live investigations	1
Police Sergeant	Case to answer	1
Police Sergeant	No case to answer	1
Senior officer	No case to answer	2

Outcome to allegations recorded as public complaints and whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	No case to answer	3
Police Sergeant	No case to answer	1

Year 2019/20

Conduct cases	
Rank	Total
Police Constable	25
Police Sergeant	2
Senior officer	1

Public complaints	
Rank	Total
Police Constable	3

Police Constable – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	9
Authority, respect and courtesy	5
Orders and instructions	2
Duties and responsibilities	4
Confidentiality	3
Discreditable conduct	5

Police Constable – Public complaints	
Allegation	Total
Improper disclosure of information	1
Other assault	2
Other irregularity in procedure	2

Police Sergeant – Conduct cases	
Breach of the standards of professional behaviour	Total
Honesty and integrity	1
Duties and responsibilities	1
Confidentiality	1

Senior officer – Conduct cases	
Breach of the standards of professional behaviour	Total
Authority, respect and courtesy	1

Sexual offences - Conduct	Total
Police Constable	1

None relate to racism

Outcome of the breaches of the standards of professional behaviour on conduct cases

Rank	Outcome	Total
Police Constable	Case to answer	14
Police Constable	No case to answer	6
Police Constable	Live investigation	5

Police Sergeant	Case to answer	1
Police Sergeant	No case to answer	1
Police Sergeant	Live investigation	1
Senior officer	Case to answer	1

Outcome to allegations recorded as public complaints and whether or not there was a case to answer for misconduct

Rank	Outcome	Total
Police Constable	Case to answer	1
Police Constable	Live investigation	4

6. Cases in which the officer left the Constabularies:

Norfolk Constabulary				
Conduct cases				
Year	Rank	Breach	Reason for leaving	Outcome
2015/16	Police Constable	Authority, respect and courtesy	Resigned	Determined there was a case to answer
2015/16	Police Constable	Honesty and integrity	Resigned	Investigation did not continue
2017/18	Police Constable	Discreditable conduct	Retired	Determined there was a case to answer
2017/18	Police Constable	Discreditable conduct Confidentiality	Resigned	Case to answer – would have been dismissed had they not resigned
2018/19	Police Constable	Honesty and integrity	Resigned	Case to answer – would have been dismissed had they not resigned
2018/19	Police Constable	Discreditable conduct	Resigned	Case to answer – would have been dismissed had they not resigned
2018/19	Police Constable	Honesty and integrity Discreditable conduct	Resigned	Case to answer – would have been dismissed had they not resigned
2019/20	Police Constable	Confidentiality	Resigned	Determined as no case to answer
Public complaints				
2019/20	Police Constable	Improper disclosure of information	Resigned	Determined there was a case to answer

Suffolk Constabulary				
Conduct Cases				
Year	Rank	Breach	Reason for leaving	Outcome
2015/16	Police Constable	Discreditable conduct Orders and instructions	Resigned	Determined there was a case to answer
2016/17	Police Constable	Authority, respect and courtesy	Resigned	Determined there was a case to answer
2016/17	Police Sergeant	Authority, respect and courtesy	Resigned	Determined there was a case to answer
2016/17	Police Constable	Authority, respect and courtesy	Resigned	Determined there was a case to answer
2016/17	Police Constable	Honesty and integrity Orders and instructions Duties and responsibilities	Resigned	Determined there was a case to answer
2017/18	Police Constable	Honesty and integrity	Resigned	Determined there was a case to answer
2018/19	Police Constable	Discreditable conduct	Resigned	Determined there was a case to answer

7. One case was dropped after an officer left, this was a Norfolk officer and details are as follows:

Year	Rank	Assessment	Breach
2015/16	Police Constable	Gross misconduct	Honesty and integrity

8. The Constabularies can **neither confirm nor deny** whether any information is held regarding officers of a specific department, as the provision of any such information or the confirmation that no information is held, would highlight whether any information is held with regards to a small number of officers.

Norfolk and Suffolk Constabularies can **neither confirm nor deny** that it holds the information you requested as the duty in s1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions

Section 30(3) – Investigations

Section 31(3) – Law Enforcement

Section 40(5) – Personal Information

This refusal should not be taken to mean that the information you have requested exists or does not exist.

In line with Section 17(1) of the FOIA it is required that we articulate the public interest considerations for the use of NCND within exemptions 30, 31 and 40(5).

When an FOI request is submitted requesting information relating to a living individual(s) the request the Police Service will never confirm to the world whether or not an individual has been involved in any incident or crime as to do so would be a complete breach of the Data Protection Act 2018. This information is undoubtedly personal information of the individuals involved, especially as the order in question may not bear any relevance to their role within the force.

Confirming or denying whether any information is held would be harmful, inasmuch as any information held would only be valid for the day in question and any change in stance to this and similar requests in the future may inadvertently identify to persons aware of any situations whether any such orders have been out into place. This would reveal that individual's personal data.

Personal information 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, or equally led to an individually be wrongfully identified as a suspect.

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 Policing 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 the principle 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.

Disclosure may interest the public, however it is clearly not within the public interest to go against legislative requirements and breach the Data Protection Act.

Evidence of Harm in complying with s1(1)(a) – to confirm or not whether information is held

The College of Policing APP Information Management Module is a national standard adhered to by all police forces across England and Wales. Police information refers to all information obtained,

recorded or processed for a policing purpose and includes information which processed (known as data, including personal data) and information which has been subject to a process of evaluation (known as intelligence).

To confirm or deny whether or not any employees within the professional standards department have had any misconduct in whatever respect, would identify an individual as there are very few individuals within the department and this would ultimately undermine professional standard processes.

Public Interest Considerations - Section 30

Factors favouring complying with Section 1(1)(a)

There is a public interest in the transparency of policing operations and providing assurance that the Constabulary is appropriately and effectively investigating police misconduct. Confirming or denying whether any information is held would allow the public to make informed decisions about these matters

Investigations are conducted using public funds, therefore, releasing the details would provide the public with reassurance that resources are being appropriately managed. Disclosure would increase public confidence and may lead to more people coming forward with the professional standards process.

Factors against complying with Section 1(1)(a)

There is a strong public interest in safeguarding the integrity of professional standards processes and in maintaining confidence that the police service appropriately deal with misconduct. However, confirmation or denial that any information is held relevant to the request would undermine any investigative process and compromise the integrity of any operations as the department has a very small number of people employed within it and any response now, or in the future, would identify whether or not those individuals have had any conduct matters.

Information regarding live investigations is rarely disclosed as the Police have to consider any impact that such a disclosure may have on an ongoing investigation. This could lead to individuals taking steps to destroy evidence, in order to avoid detection.

Public Interest Considerations - Section 31

Factors favouring complying with Section 1(1)(a)

There is a public interest in ensuring the police service appropriately manages the professional standards of its employees.

Factors against complying with Section 1(1)(a)

Confirming or denying whether information is held would identify individuals who have or have not had any misconduct. There is a Professional Standards process to deal with any such occurrences however, to confirm whether or not there are any within a specific department would undermine that process and potentially lead to an individual being identified.

The Constabularies rely on the ability to effectively manage employees in all areas of professional standards, without those processes being impacted on by FOI disclosures. To protect misconduct hearings and outcomes, it is necessary to withhold whether certain information is or is not held, from further public disclosure.

Balancing Test

The points above confirm that there are no tangible benefits to confirming what information is or is not held. Although it is imperative the Constabularies can identify to the public that they are appropriately managing the conduct of its officers and staff, this has to be done in a manner that is balanced and does not impact on that process and breach any associated legislation, such as the Data Protection Act.

The public has an expectation that any information they provide will be treated with confidence and in line with the APP Information Management Module. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence other agencies and individuals have in the Police Service.

Therefore, it is our opinion that for these issues the balance test for neither confirming nor denying that information is held is appropriate in this case.

No inference can be taken from this refusal that information does or does not exist.

9. Over the five-year period one serving officer in Suffolk and one serving officer in Norfolk have been subject to misconduct investigations. The details of these misconduct investigations have not been provided as coupled with the information supplied above already, it would be fairly easy for individuals to identify who the officers are. Consequently, the information has not been provided as a result of exemptions within the Act.

Section 17 of the Freedom of Information Act 2000 requires that Norfolk and Suffolk Constabularies, when refusing to provide such information (because the information is exempt) is to provide you the applicant with a notice ban 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 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, or equally led to an individual be wrongfully identified as a suspect.

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 Policing 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 the 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.

Partial NCND in relation to questions 1-6

In addition to the information provided, the Constabularies can **neither confirm nor deny** whether any information is held as a result of exemptions within the Act.

When considering the harm and public interest for the appropriateness of using NCND it is worth noting that there is undoubtedly a call for openness and transparency with regard to the maintenance of standards within the police service and the reporting on any misconduct within. This can be seen from the decision to publish outcomes of some hearings following sentencing which acts as a reassurance to members of the public that the police thoroughly investigate and deal with allegations of misconduct expeditiously and thoroughly.

However, questions included within this case captures information which won't have been previously reported on within the public domain; namely the alleged misconduct of officers no

longer serving or, who were employed within a specific role. Irrespective of whether information is or isn't held, to confirm to the world that information is held, by citing a substantive exemption, or, conversely, stating no information held, would be a clear breach of the Data Protection Act and furthermore, risks undermining a consistent approach on the disclosure of such information in the future. As such, as there is no formal acknowledgement within the public domain it is felt at this time that to respond to this FOI by NCND'ing that information exists is the most appropriate conclusion.

S30(3) – Investigations

There is a public interest in the transparency of policing operations and providing assurance that the police appropriately and effectively deals with crime. Confirming or denying whether any information is held would allow the public to make informed decisions about these matters.

However, all police forces have a duty to conduct investigations with a view to ascertaining whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it. Consequently, some of the information captured by this request pertains to unresolved criminal investigations therefore, and irrespective of what information may or may not be held, all forces are entitled to rely upon Section 30(3) to the extent that the requested information, if held, could have been held at any time for the purpose of such an investigation. Where confirmation or denial would reveal whether a particular person was under investigation and where this would, or would be likely to, prejudice such an investigation, public authorities should be alert to the need to apply the NCND provision.

S31(3) – Law Enforcement

To disclose to the world whether information is or isn't held (by citing a substantive exemption or stating 'no information held') would highlight which force areas are investigating employees, some of which may be covert misconduct investigations. With regard to the harm for Section 31(3) (by virtue of Section 31(1)(g) & 2(b) *the purpose of ascertaining whether any person is responsible for any conduct which is improper*) it is worth mentioning that the College of Policing publishes their Authorised Professional Practice for [Professional Standards](#). The principle of policing by consent relies on the trust and confidence that the public has in the Police Service and the wider law enforcement community. Professional Standards Departments can play an important role in the maintenance of that trust and confidence. Trust and confidence can be undermined by a failure to vet and manage misconduct and complaints or investigate counter-corruption activities effectively. It is, therefore, essential that such issues are dealt with openly and robustly in accordance with the College of Policing Code of Ethics.

To confirm information is held would undermine this APP and the effective delivery of operational law enforcement by compromising potentially ongoing misconduct investigations which could lead to police officers having to be removed from their frontline duties in order to increase manpower on other investigations.

As stated, there is undoubtedly a call for openness and transparency with regard to misconduct hearings, and this can be seen from the decision to publish outcomes of some hearings following

sentencing and this acts as a reassurance to members of the public that the police thoroughly investigate and deal with allegations of gross misconduct/misconduct expeditiously and thoroughly. That being said this is only ever done when deemed safe to do so from a law enforcement perspective.

S40(5) – Personal Information

Regardless as to what is already in the public domain from any unofficial source, your consideration on applying this exemption is subject to whether the disclosure of the information requested would lead to identifying individuals and place information pertaining to them into the public domain by your force. This constitutes personal data which would, if released, be in breach of the rights provided by the Data Protection Act 2018 and General Data Protection Regulations; namely the first data protection principle, which states that personal data will be processed *lawfully, fairly and transparently*. It is our view that the request runs counter to the three requirements prescribed by law and that there is no lawful basis to provide this information to the applicant. Furthermore, the question of fairness and transparency is not met either as the data subjects in question would have no expectation that their personal data would be provided to the applicant and processed in this way. This is an absolute exemption and no public interest test is required.

No inference can be taken from the aforementioned that the information requested does or does not exist.

Should you have any further queries concerning this request, please contact Clair Pack, FOI Decision Maker, quoting the reference number shown above.

A full copy of the Freedom of Information Act (2000) can be viewed on the 'Office of Public Sector Information' web-site;
<http://www.opsi.gov.uk/>

Norfolk and Suffolk Constabularies are not responsible for the content, or the reliability, of the website referenced. The Constabulary cannot guarantee that this link will work all of the time, and we have no control over the availability of the linked pages.

Your Right to Request a Review of Decisions Made Under the Terms of the
Freedom of Information Act (2000).

If you are unhappy with how your request has been handled, or if you think the decision is incorrect, you have the right to ask the Norfolk and Suffolk Constabulary to review their decision.

Ask Norfolk and Suffolk Constabularies to look at the decision again.

If you are dissatisfied with the decision made by Norfolk and Suffolk Constabularies under the Freedom of Information Act (2000), regarding access to information, you must notify the Norfolk and Suffolk Constabulary that you are requesting a review within 20 days of the date of its response to your Freedom of Information request. Requests for a review should be made in writing and addressed to:

*Freedom of Information Decision Maker
Information Management Department
Suffolk Constabulary
Police Headquarters
Martlesham Heath
Ipswich
Suffolk
IP5 3QS
OR
Email: information@suffolk.pnn.police.uk*

In all possible circumstances Norfolk and Suffolk Constabulary will aim to respond to your request for us to look at our decision again within 40 working days of receipt of your request for an internal review.

The Information Commissioner.

After lodging a request for a review with Norfolk and Suffolk Constabulary, if you are still dissatisfied with the decision, you can apply to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at www.ico.org.uk or contact them at the address shown below:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700