

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 June 2023

Public Authority: Chief Constable of Wiltshire Police
Address: Wiltshire Police Headquarters
London Road
Devizes
Wiltshire
SN10 2DN

Decision (including any steps ordered)

1. The complainant requested Wiltshire Police's expenditure exceeding £500 for three specified time periods, to be provided in an Excel format. Wiltshire Police refused to provide the requested information, citing section 21 of FOIA – information accessible to applicant by other means and provided the complainant with the relevant URL. The complainant disputes that the information is available to him by other means because it is in PDF format rather than Excel.
2. The Commissioner's decision is that Wiltshire Police was entitled to rely on section 21 of FOIA. Given this decision, section 11 of FOIA which deals with the means of communicating the information is not relevant.
3. The Commissioner does not require any steps as a result of this notice.

Request and response

4. On 3 April 2023, the complainant wrote to Wiltshire Police and requested information in the following terms:

'Wiltshire Constabulary publishes details of its expenditure over £500 in the PDF format. I'm seeking details of all expenditure over £500 in the financial years 2020/21, 2021/22, and 2022/23, provided in an Excel spreadsheet.'

Please note that the Cabinet Office FOI Code of Practice states: Section 11 of the Act says that if an applicant states a preference for receiving information in a specific format a public authority shall, if they are required to disclose information, aim to meet this preference as far as is reasonably practicable.”

5. Wiltshire Police responded on 25 April 2023. It refused to provide the requested information, citing section 21 of FOIA – information accessible to applicant by other means. It provided the relevant weblink to the information which appears in PDF format.¹
6. The complainant requested an internal review on 25 April 2023 reiterating that he required the information in Excel format and stating that, in his view, the information is therefore not accessible to him by other means.
7. Following an internal review Wiltshire Police wrote to the complainant on 27 April 2023. It maintained that section 21 applied and gave further reasons as to why it was upholding this position (as set out in paragraph 16 of this notice).

Scope of the case

8. The complainant contacted the Commissioner on 27 April 2023 to complain about the way his request for information had been handled. Specifically, he said:

‘Wiltshire Police has refused to provide its expenditure records in Excel format, claiming that the requested information is already available to me by alternative means in PDF format.

It is reasonable to assume that the original versions of Wiltshire Police’s expenditure records are held in Excel format rather than as PDFs. It is therefore also reasonable for the requested information to be provided in Excel format, and to do so would not require the creation of new information.

The requested information cannot simply be converted to Excel format or saved as Excel files, as Wiltshire Police has suggested. Formatting issues mean the data extracted from PDFs cannot be manipulated or processed in any of the ways permitted by the standard Excel software.

¹ <https://www.wiltshire-pcc.gov.uk/how-your-money-spent/payments-over-500/>

Wiltshire Police says its Force Disclosure Unit is “currently dealing with a higher-than-normal volume of requests” and is “also currently significantly understaffed and already struggling to meet their statutory deadlines”. None of these are acceptable reasons for the force’s failure to meet its statutory obligations under the Freedom of Information Act.’

9. The Commissioner has considered whether Wiltshire Police was entitled to rely on section 21 of FOIA to refuse this request. In doing so, he has also examined whether section 11 (mean by which communication to be made) applies in this case.

Reasons for decision

Section 11 – means by which communication to be made

10. The Commissioner’s guidance on section 11 of FOIA² states:

“Section 11 is about how you should provide information you are releasing under FOIA.”

And

“Section 11 is relevant when you are providing information to a requester in response to a FOIA request. If you are not providing the information because of an exemption, section 11 is not relevant.”

11. It also states:

“If the information is already reasonably accessible to the requester, it may be exempt under section 21 of FOIA. If so, section 11 does not apply.”

12. It is against this background that the Commissioner has considered whether Wiltshire Police was entitled to rely on section 21 of FOIA in this case.

² <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information>

Section 21 – information accessible by other means

13. Section 21(1) of FOIA provides that information is exempt from disclosure under FOIA if the information requested is held by a public authority and is already reasonably accessible to the requester.
14. Section 21 is an absolute exemption which means there is no requirement to carry out a public interest test if the requested information is exempt.
15. The information requested is Wiltshire Police's expenditure over £500 for the years 2020/21, 2021/22 and 2022/23. The information available via the weblink at footnote 1 is exactly this information, although the Commissioner accepts that the format is PDF as opposed to Excel.
16. Wiltshire Police explained to the complainant in its internal review that:

"The current ICO FOI guidance states that whilst an applicant can request to receive information in the format they want, an Authority should send the information by the most reasonable means – which in this case is information already currently available in the public domain on the PCC [Police and Crime Commissioner] website via the link provided to you.

The Force Disclosure Unit at Wiltshire Police are currently dealing with a higher-than-normal volume of requests, not only under FOI but also Rights of Access, Insurance and high-priority and sensitive disclosures for both Cafcass, our Local Authorities and the Family Court. The unit are also currently significantly understaffed and already struggling to meet their statutory deadlines.

The information accessible in pdf format can very simply be copied and pasted directly into excel by anyone with access to it OR indeed the pdf documents themselves can be saved directly as usable excel files. I believe therefore that it would be not only an unnecessary additional burden on this Authority to have to recreate this information for you in this alternative format but not be reasonably practical for us to do so given our other current priorities – especially those around Cafcass / the Local Authority and Family Court where disclosures are not only statutory but there are also significant safeguarding concerns for the parties involved.

It should also be noted that under the FOIA there is no obligation on an Authority to create information – where none exists currently – simply to answer an FOI request."

17. The complainant disputes that the information is available or accessible to him by other means in accordance with section 21 because it is not in the format he has requested.
18. It is initially noted that the requested information is available both to the complainant and the general public via Wiltshire Police's publication scheme; the work to provide the requested information has therefore already been undertaken. The PDF format being used is generally accessible to most people and the Commissioner therefore considers it to be a reasonable format for Wiltshire Police to have used. Whilst the complainant may be of the opinion that it should undertake additional work to provide the information in a different format, the Commissioner does not agree that it is reasonable to expect Wiltshire Police to undertake more work. Whilst it may be onerous for the complainant to undertake the work himself, it is feasible for him to do so.
19. The Commissioner is satisfied that the requested information is reasonably accessible to the complainant by other means, in accordance with section 21 of FOIA. As he has found that section 21 of FOIA applies, section 11 does not have to be further considered as the requested information is already reasonably accessible to the complainant.

Right of appeal

20. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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

Carolyn Howes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF