



Your reference:

Our reference: FOI_2023.0863

E-mail: FOI

@gloucestershire.police.uk

Direct dial: 01452 754304

Postal Address: As above

Date: 22/09/2023

Dear

Gloucestershire Constabulary Freedom of Information request 2023.0863

On 24/08/2023 you sent an email constituting a request under the Freedom of Information Act asking the following:

For a special report, I wonder if you would be able to provide us with information regarding -

How many arrests, cautions or reports have been made for offering or aiding with hymenoplasty/virginity testing under the Health and Care Act 2022 since April of 2022

Under the Freedom of Information Act 2000 s1, I can confirm that Gloucestershire Constabulary holds some relevant information.

Section 17 of the Freedom of Information Act 2000 requires Gloucestershire Constabulary, when refusing to provide information (because the information is exempt) to provide you the applicant with a notice which: (a) states the fact, (b) specifies the exemption in question and (c) states (if not otherwise apparent) why the exemption applies.

With regard to the above requested information, the following exemptions apply:

Section 40(2) – Personal Information

Section 31(1) – Law Enforcement

Section 40(2) applies to third party personal data. This would not be released under the Freedom of Information Act unless there is a strong public interest. This is because any release would breach the Data Protection Principles contained within the Data Protection Act 2018, namely the first principle which requires that personal information be processed lawfully, fairly and with transparency. The Constabulary will not release any information under the Freedom of Information Act which may result in the identification of an individual and in particular the victim of a crime. Due in part to the specific nature of the crime, it is

highly likely that an individual may be identified; this includes the potential for a victim of a crime or their family/friends to identify themselves in any disclosed information.

This exemption is absolute and class based therefore I am not required to apply either the public interest test or harm test in disclosure.

S.31(1) is qualified and prejudice based therefore both a Public Interest Test and Harm Test are required.

Evidence of Harm

Modern day policing is intelligence led and relies on the confidence of the public to come forward and report offences. To disclose information relating to these specific offences would cause certain communities to mistrust the Police, which would then be likely to undermine the Police service's ability to serve the public in preventing and detecting crime and can only be considered as being harmful to the public.

Public Interest Test

Factors in Favour of Disclosure

The disclosure of this information would lead to a better public awareness of how Gloucestershire Constabulary investigates such offences and would provide reassurance to the public that the Constabulary takes these offences very seriously.

Factors against Disclosure

Disclosing the number of offences recorded would show whether Gloucestershire Constabulary has recorded a relatively high or low number of offences which could highlight to offenders that the Police are not, or would not have been, aware of their offending behaviour.

As victims of this type of crime are often known to or related to offenders, which at times is a family member, disclosure of this information may also lead to community tension or unrest, thereby hindering the prevention and detection of crime.

Balance Test

The points above highlight the merits for and against disclosure. Disclosure will provide a greater openness and transparency to the communities we serve regarding this specific offence. However, as much as there is a public interest in knowing how these offences are recorded and investigated, this is overridden by the potential for personal data to be disclosed and the likelihood of other offences not being reported.

Therefore, at this time, it is our opinion that for these issues the balance test for disclosure of the information is not made out.

In accordance with the Act, this letter represents a Refusal Notice for your request.

If you are not satisfied with this response or any actions taken in dealing with your request, you have the right to ask that we review your case under our internal procedure. Please note that a request for an internal review must be made within 20 working days of the response to your original request.

If you decide to request that such a review is undertaken and following this process you

are still unsatisfied, you then have the right to direct your complaint to the Information Commissioner for consideration.

The Information Commissioner can be contacted via the following means:

Website - <https://ico.org.uk/>

Call their helpline - 0303 123 1113

Email - casework@ico.org.uk

Post –

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Disclosure Officer
Gloucestershire Constabulary