

**Force Disclosure Unit**

Wiltshire Police HQ  
London Road  
Devizes  
Wiltshire  
SN10 2DN  
Tel 101 ext. 62005

[www.wiltshire.police.uk](http://www.wiltshire.police.uk)

[disclosure@wiltshire.police.uk](mailto:disclosure@wiltshire.police.uk)

Ermine Amies

Date: 07 April 2021

Your ref:

Our ref: FOI 2021/108

Reply contact name is: **Lloyd Tilbury**

Dear Ermine,

I write in connection with your request for information dated 4<sup>th</sup> February 2021 concerning Stonewall.

I am required by the Freedom of Information Act 2000 to handle all requests in a manner that is blind as to the identity and motives of the requestor. Any information released as a response to a request is regarded as being published and therefore in the public domain without caveat.

Your request for information has now been considered and I am not obliged to supply the information you have requested.

**You wrote:**

3. Any other communication you have received from Stonewall in 2019 or 2020 unless privileged or otherwise exempt from disclosure (but if you claim privilege or exemption in relation to any material, please say in broad terms what the material is and the basis on which you claim to be entitled to withhold it).

**Response:**

Having reviewed your request, the original response and your request for an Internal Review, I believe a different exemption is more appropriate.

The information that you are requesting in regards to Question Three is exempt by virtue of:

Section 41(1) – Information provided in confidence

Section 41 is an absolute exemption and, as such, there is no requirement for the public interest test.

The Freedom of Information Act 2000 states that information is exempt from disclosure via Section 41(1) if:

- *It was obtained by the authority from any other person*
- *Its disclosure would constitute a breach of confidence*



INVESTOR IN PEOPLE

Furthermore, the Act also states that it can only be enforced where *an actionable breach would occur*. The Information Commissioner's Office (ICO) has published guidance which states:

"When determining if disclosure would constitute a breach of confidence, the authority will usually need to consider;

- Whether the information has the quality of confidence
- Whether it was imparted in circumstances importing an obligation of confidence, and
- Whether disclosure would be an unauthorised use of the information to the detriment of the confider"

As confirmed in the previous FOI response to you, Wiltshire Police sought advice on policy updates from Stonewall in 2020 and we received advice on the review of our Transgender Policy. Within their submission Stonewall stated that:

*'any scoring or comments made on the submission is confidential between Stonewall and the applicant/organisation...'*

Furthermore, the ICO has also stated in relation to Section 41:

"The necessary quality of confidence

29. Information will possess the necessary quality of confidence if;

- It is more than trivial; **and**
- Not otherwise accessible

30. The information should be worthy of protection in the sense that someone has a genuine interest in the contents remaining confidential"

In relation to the above ICO guidance, the information provided by Stonewall can be seen to have been given in confidence given its nature and that it was made in a private forum. In regards to the context that they were given in, they were provided with commercial considerations with a view to encourage a safe environment for the Diversity Champions to develop and improve their practices. Stonewall can also be seen to have a genuine interest in the contents remaining confidential, as it would be damaging for them if others (competitors or customers) could see the detailed comments which have been made with the benefit of their experience. This could also lead to customers being less likely to sign up to become Diversity Champions.

It should also be noted that Sections 40 and 43 may also be applicable to this question.

Section 17 of the Freedom of Information Act 2000 requires Wiltshire Police, when refusing to provide information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice for those aspects of your request.

Exemptions applied:

Section 41(1) – Information provided in confidence

Please contact me if you would like to discuss the withheld information.

Yours sincerely

**Lloyd Tilbury**  
**Principal Decision Maker**

The Wiltshire Police offers a re-examination of your case under its review procedure



## **Force Disclosure Unit**

Wiltshire Police HQ, London Road, Devizes, Wiltshire SN10 2DN  
Telephone 101 ext 62005

### **Freedom of Information Request Appeals Procedure**

#### **1. Who Can Ask for a Review**

Any person who has requested information from Wiltshire Police, which has been dealt with under the Freedom of Information Act, is entitled to complain and request an internal review, if they are dissatisfied with the response they received.

#### **2. How to Request a Review**

Requests for review of a Freedom of Information request must be made in writing to the:  
Force Disclosure Unit  
Wiltshire Police Headquarters,  
London Road, Devizes,  
Wiltshire,  
SN10 2DN

Email at [disclosure@wiltshire.police.uk](mailto:disclosure@wiltshire.police.uk).

The reference number, date of the request and details of why the review is being requested must be included. Requests for review should be brought to the attention of the Force Disclosure Unit within 20 working days of the Force's response to the original FoI request.

#### **3. Review Procedure**

Receipt of a request for review will be acknowledged in writing to include confirmation of the reasons for the review. The review will be conducted by another Decision Maker, who is independent from the original Decision Maker. The Force Disclosure Unit will set a target date for a response. The response will be made as soon as is practicable with the intention to complete the review within twenty working days. In more complex cases the review may take up to 40 working days.

The Independent Decision Maker will conduct a review of the handling of the request for information and of decisions taken, including decisions taken about where the public interest lies in respect of exempt information where applicable. The review enables a re-evaluation of the case, taking into account the matters raised by the complaint.

#### **4. Conclusion of the Appeal**

On completion of the review the Independent Decision Maker will reply to the complainant with the result of the review. If the complainant is still dissatisfied following the review they should

contact the Information Commissioner to make an appeal. The Information Commissioner can be contacted via the following details:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 01625 545 700  
Fax: 01625 524 510  
Email: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)

**Please note that the ICO's offices will be closed for the foreseeable future and are therefore unable to receive correspondence via post.**

**If you should wish you contact them, please visit <https://ico.org.uk/global/contact-us/>**