



**HEDDLU
GOGLEDD CYMRU
NORTH WALES
POLICE**

Response Date: 20/11/2024

2024/943 - Case documents on unidentified male body

In response to your recent request for information regarding;

All available investigation files for the discovery of the unidentified male body found in Clocaenog Forest in November 2015.

Clarification requested

Please could you clarify exactly what you would be looking for with your request? A case such as this could produce a large amount of material, and it would be useful for us to know if there was a particular element/summary etc you were interested in.

Clarification

I would like to receive as much material which is available and open to the public as possible. Particularly pertaining to witness testimonies, interviews, postmortems, forensic analysis, and any leads or lines of inquiries, even those that have been ruled out.

As this remains an unsolved missing person case/undetected crime, concerns have been raised in disclosing information into the public domain. Therefore, a public Interest Test has been carried out to weigh up the reasons for and against disclosure; to ensure the release is in the interest of the public as a whole and not just the applicant. Therefore, the following exemptions have been engaged:

Section 40 (2) Personal Information

Section 30 (1)(a) – Investigations & proceedings conducted by a public authority

Section 40 is a class based absolute exemption and there is no requirement to consider the public interest in this case.

Section 30 (1)(a) is a qualified and class-based exemption and thus a consideration of the public interest must be provided upon disclosure. Please see the reasoning below.

ICO guidance on the use of the Section 30 (1) exemption states:

“Section 30(1) provides an exemption from the duty to disclose information that a public authority has held at any time for certain investigations or proceedings. As long as the other requirements of the exemption are satisfied, the exemption will apply to information even if it was not originally obtained or generated for one of those purposes and it will continue to protect information even if it is no longer being used for the specified investigation or proceeding. It is only necessary for the information to have been held at some point for those purposes”

Furthermore, the guidance on the use of Section 30 goes on to say “It is not necessary that the investigation leads to someone being charged with, or being convicted of an offence. However, the purpose of the investigation must be to establish whether there were grounds for charging someone, or if they have been charged, to gather sufficient evidence for a court to determine their

guilt. Section 30(1)(a) will still protect information if a police investigation fails to establish that an offence has been committed, or concludes that there is insufficient evidence to charge anyone”.

Factors favouring disclosure

Disclosure of the information requested would lead to a better-informed general public and an awareness of historical information. This would further promote public trust in providing transparency and demonstrating openness and accountability.

Factors favouring non-disclosure

The information requested relates directly to an unsolved missing person case/undetected crime, which may be subject to further investigation and continual review in the future. Therefore, disclosure of any material held for the purposes of a criminal investigation has the potential to undermine any criminal proceedings which could arise.

Additionally, disclosure would suggest that North Wales Police take their responsibility to appropriately handle and manage information provided by individuals to assist with criminal investigations flippantly and dismissively. This would significantly reduce public confidence and deter individuals from reporting crimes to the Police.

Balancing test

The Police Service is tasked with enforcing the law and protecting the community we serve and there is a public interest argument in ensuring we are open and transparent with regard to policing investigations.

However, the ability of North Wales Police to conduct enquiries is crucial to the principles of prevention and detection of crime. We are unable to disclose information which could potentially form part of proceedings down the line.

There is also a large amount of information in the public domain which has been carefully assessed for release to help aid the investigation. Anything additional to this is not suitable for disclosure as it could be detrimental to the case/ future investigations.

And although Section 40 (2) is a class based absolute exemption and there is no requirement to consider the public interest in this case, it is worth explaining that any ‘witness testimonies, interviews’ would remain the Personal information of those that had provided them. Therefore, this particular part of your request constitutes personal data of which you are not the subject and disclosure of the information to a member of the public otherwise than under the Data protection Act 2018 would contravene the data protection principles.

The data protection rights of a third party would be breached by disclosure, therefore section 40(2) is an absolute exemption and a Public Interest Test is not necessary. This is so because personal data is governed by another law (The Data Protection Act 2018) and there are two elements to this exemption.

All requests made under FOIA are applicant blind. A request must be treated as such and a public authority will always view any disclosure as into the public domain. Thus North Wales Police must be satisfied that any release of information will be potentially available to the general public. It is therefore on this basis that the following is relevant.

The first element of this exemption is engaged if the information requested constitutes personal data and is made by the data subject. The information will be covered by section 40(1) and the request will be dealt with under the Data Protection Act, rights of access.

The second element of this exemption is engaged if the personal data is about someone other than the applicant. Where someone makes an application for information other than the data subject, disclosure of that information will often constitute a breach of the Data Protection Act covered by section 40(2).

Personal data is regulated under the principles of the Data Protection Act and when information contains personal data about a third party it can only be refused if disclosure would breach any of the data protection principles.

As previously highlighted, any disclosure under the FOIA is a public disclosure and release of the identity of an individual would breach principles 1 & 2 of the Data protection Act 2018.

These principles require that: 1) the processing of personal data for any of the law enforcement purposes must be lawful and fair and 2) the law enforcement purpose for which personal data is collected on any occasion must be specified, explicit and legitimate.

'Data subjects' are provided with certain legal enforceable rights under the Data Protection Act 2018. The fact that the information is held for lawful policing purposes, disclosing it onwards would breach the principles, and would be incompatible with the data subject's right that their data is held securely. By disclosing this information, the force could be subject to enforcement proceedings under the act if it breaches any of those principles.

Therefore, in accordance with the Freedom of Information Act 2000, this letter acts as a Refusal Notice under section 17 (1) of the legislation.

Please find below a link to information already in the public domain which may be of interest to you, and provide details of forensic analysis, and any leads or lines of inquiries:

[The murder victim discovered in Clocaenog Forest who has never been identified - North Wales Live](#)

[Case | UK Missing Persons Unit](#)

THIS INFORMATION HAS BEEN PROVIDED IN RESPONSE TO A REQUEST
UNDER THE FREEDOM OF INFORMATION ACT 2000, AND IS CORRECT AS AT 19/11/2024