

Date: 23rd May 2024
Our ref: FOI/24/013465/T

Your recent Freedom of Information Request – Reference FOI/24/013465/T

GMP have received details of your request for information. Details of your request are provided below:

Dear whom it may concern.

I would like to put in a freedom of information request to access my daughters Police and Criminal records.

I would like to access these from [REDACTED]

[REDACTED]

[REDACTED] *sadly passed away on 05/03/2022.*

My name is [REDACTED] *and I am her legal next of kin.*

Please find attached my I.D, Proof of address and [REDACTED] *Death certificate (Stating my name)*

I look forward to hearing from you.

Kind Regards

[REDACTED]

We have reviewed your request and considered it under the provisions of the Data Protection Act and Freedom of Information Act. Unfortunately, we are unable to provide you with the information you have requested in accordance with these information access routes. The reasons for this decision are set out below.

Data Protection Act 2018

The Data Protection Act (DPA) facilitates individuals' rights to personal data through the right of access provisions. Section 3(2) of the DPA defines personal data as information relating to an *"identified or identifiable living person"*. As your request relates to information about an individual who is deceased, this means that your request cannot be considered under the access provisions of the DPA as it does not relate to personal data. Your request is therefore refused under the DPA.

Freedom of Information Act 2000

The Freedom of Information Act (FOIA) allows access to recorded information held by a public authority. Greater Manchester Police is a public authority defined by the FOIA and information we hold relating to deceased persons falls within the scope of this Act which may be considered for release. Your request has therefore been considered under the provisions of the FOIA.

Results

Greater Manchester Police can neither confirm nor deny that it holds the information you requested as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemption:

Section 38(2) – Health and Safety

With Section 38 being prejudice based qualified exemptions there is a requirement to articulate the harm that would be caused in confirming or denying that the information is held as well as carrying out the public interest test.

Harm

Any information disclosed under the Freedom of Information Act is effectively released into the public domain, or to the 'wider world' and not only to the person making the request.

This request is seeking information regarding a named person whom you have stated is now deceased. As Section 40 is only appropriate for living individuals, it is not engaged for this request and therefore Section 38 is relied upon.

Factors Favouring Confirmation or Denial – Section 38

Confirmation or denial of the existence of the information would promote openness and transparency.

Factors Against Confirmation or Denial – Section 38

Confirmation or denial of the information relating to a deceased person would identify the individual and could subsequently cause distress and upset to the individual's close family and friends.

Balance Test

The release of information under Freedom of Information (FOI) is a release into the public domain and not just to the individuals requesting the information. Once information is disclosed under FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

Confirmation or denial of whether Greater Manchester Police hold this information would amount to a release of information either on this occasion or on other occasions where a similar request is made. Whilst there is a public interest in the transparency of any information recorded by the police, there is

also a strong public interest in maintaining confidence in GMP with regards to its handling of information. Information should not be released, if it is likely to have a detrimental effect on the physical or mental health of any individual, this includes the close family and friends of a deceased individual. It is for these reasons that the public interest must favour neither confirming or denying that the requested information is held.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.