

Police Federation
Of England and Wales



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Established by Act of Parliament

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FROM THE GENERAL SECRETARY'S OFFICE

IR/sg

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Dear Colleagues

PUBLICATION OF OFFICER PHOTOGRAPHS

The publication of photographs, names and identifying numbers of officers on Force websites is increasingly common, particularly for those in Neighbourhood Policing roles. This gives rise to a number of questions about the legal position.

I have asked our lawyers to prepare a FAQ sheet and hopefully you will find this of assistance.

1. **What areas of law are relevant?**

There is nothing in Police Regulations about this but the Chief Constable does have a broad discretion under the Police Act 1996 in the direction and control of the Force. There may be perfectly legitimate reasons for wanting the identity of police officers to be accessible to the public on the internet.

Other areas which may be relevant include data protection, human rights, breach of confidence, defamation, health and safety and copyright.

2. **What is the position under Data Protection law?**

In general terms it is unlikely that the publication of a photograph, name and identification number amounts to a breach of the Data Protection Act 1998. Even if this information alone were "personal data" under the Act, it is likely that the conditions which allow the publication of the data are met.

However, each Force should have regard to the Information Commissioner's guidance which emphasises that an employer must balance the benefits of

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publishing information about workers with the reasonable expectations of the workers that their employer will respect the privacy of their personal information. The Guidance indicates that although consent of the individual will not always be required, where consent is obtained the individual must be made aware of the extent of the information that will be published, how it will be published and the implications of it.

It may be that the particular circumstances of the officer mean that the publication of the information creates a real issue as to safety or some other concern. In this sort of case there might be more scope for pursuing a data protection issue. Examples might be where the officer has had good reason for concealing his or her role from neighbours, or where the officer has or will be involved in a covert role which could be compromised by the information being published. A complaint to the Information Commissioner will generally be the best way to take up such issues if they cannot be resolved internally.

3. **What is the position under the Human Rights Act 1998?**

The Human Rights Act does not provide an absolute guarantee of privacy but only a right to respect for home and family life. Unless there is a particular pressing reason not to disclose the information as above it is unlikely that the publication of these details will amount to a breach of the Human Rights Act.

However, the right to respect for home and family life under Article 8 must be taken into account by any court or tribunal dealing with a legal issue arising out of this situation.

4. **Is there a breach of confidentiality or any defamation?**

It is very unlikely that any right to confidentiality arises in relation to the photograph, name and identifying number of an officer if that is all that is published. However, there may be a right to confidentiality in relation to any personal information about the officer, or if publication of those details alone still creates a particular risk for the officer.

Similarly publication of the basic details alone will not be defamatory of the officer. Defamation only occurs where what is published is detrimental about the officer or would reduce the reputation of the individual amongst members of society generally.

5. **What about Health and Safety?**

Unless the Force are on notice about any particular risk to the health and safety of an officer resulting from publication of these details, it is unlikely that any claim arises where the minimum details are published. If, however, publication of those details would create a particular risk for the officer this should be drawn to the attention of the Force and a claim might be possible if the Force ignored that warning, publish the information, and the officer sustained injury as a consequence of the details becoming public.

6. **Is there any copyright issue?**

Almost certainly not. An individual performing a public role almost certainly has no copyright in his or her own image and identifying details when that information is used for a legitimate purpose.

7. **Does this mean that the Force can only publish information of the officer has consented?**

No. This basic information can be published without consent in most cases.

However, consent should be obtained where:

- (a) the information goes beyond the minimum of the photograph, name and identifying number of the officer, or
- (b) the special circumstances of the officer mean that the implications of publicising this information are more serious e.g because of a special risk to the officer or their family, or an implication for covert operations.

8. **What happens if the officer refuses to consent?**

The Force may be able to publish the information anyway (see above). It would also be open to the Force to take the view that the officer should be posted to a different role where there is no reason to publish such information. It is unlikely that there is any legal challenge open to an officer posted to a different role in these circumstances.

9. **If an officer has special reasons for not wanting this information published, what steps should be taken?**

The Force should be made aware of this as soon as possible. If necessary a notice under Section 10 of the Data Protection Act 1998 can be served requiring the Force to refrain from processing the information by publishing it. The Force have to respond within 21 days setting out their justification for publication. The notice on behalf of the officer should set out why the publication of the data is likely to cause substantial damage or substantial distress to that officer or to another person. A breach of such a notice without lawful excuse can give rise to a complaint to the Information Commissioner or to court action.

Yours sincerely



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General Secretary