



POLICY

Freedom of Information Policy

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Purpose

It is the policy of The Police and Crime Commissioner and Chief Constable for Gloucestershire to fully implement the provisions of the Freedom of Information Act 2000 (FOIA) and its principles of openness and accountability.

This policy is intended for all members of the Office of the Police and Crime Commissioner (OPCC) and Constabulary having access to and who process Constabulary information. This policy aims to establish responsibilities within the Force to ensure compliance with the FOIA.

Compliance

This policy has been prepared taking account of prevailing legislation. New legislation requirements or changes in current legislation may necessitate a review of this policy document.

Our policies are intended to promote equality, eliminate unlawful discrimination and actively promote good relationships regardless of:

- Age,
- Disability,
- Gender Reassignment,
- Race,
- Religion or Belief,
- Sex,
- Sexual Orientation,
- Marriage & Civil Partnership,
- Pregnancy & Maternity.

This policy has been impact assessed using the Equalities Impact Assessment Template. By building equality considerations into our policy-making process, we have been able to identify any actual or potential inequalities and reduced them as much as possible, by applying the policy differently or looking for alternatives.

This policy is suitable for publication under the Freedom of Information Act 2000.

Introduction

The FOIA provides a general right of access to information held by a public authority. Requests for information must be responded to within 20 working days subject to exemptions.

The FOIA applies to all forms of recorded information, and is fully retrospective.

The FOIA also places a duty on public authorities to proactively release certain classes or information through a Publication Scheme of the OPCC and Constabulary websites.



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Legislative Requirements/National Guidance/Policy Requirement

The legal basis for this policy is the FOIA; however compliance with other legislation, Codes of Practice, policies and guidance has relevance:

- The associated Codes of Practice under Sections 45 and 46 of the FOIA.
- The National Police Chiefs Council (NPCC) Authorised Professional Practice (APP) for Freedom of Information
- Data Protection Act 1998
- The National Police Chiefs Council (NPCC) Authorised Professional Practice (APP) for Data Protection
- Code of Practice on the Management of Police Information
- Environmental Information Regulations 2004
- Our Information Management Policy
- Our Information Quality Policy
- Our Records Management Policy

Implications of the Policy

The FOIA applies to information held by a public authority. Information should be held for a business purpose which supports a policing purpose, and should not be held purely for the purpose of responding to a request for information. However, information should be held well, in a manner that facilitates timely and accurate retrieval of information should a request be received under the FOIA.

All our policies must have due regard to the FOIA.

Guidance/Procedures

Freedom of Information Awareness

FOIA gives any individual anywhere in the world the right to request information held by any public authority including the OPCC and Constabulary.

The FOIA also places a duty on public authorities to make certain classes of Information available under a Publication Scheme. These are published via the respective OPCC and Constabulary websites. Although it is not a requirement under the FOIA, in recognition of best practice, there is included a disclosure log with examples of responses given to individual requests for information.

A request for information under the FOIA may be received anywhere in the OPCC or Constabulary. It must be written (letter, fax, e-mail) and specify the information required. It does not need to specifically mention the FOIA.

The FOIA does not preclude information being disclosed under **Business as Usual** where a process already exists, provided that:

- The request does not specifically state it is an FOIA request.
- The information will be provided.
- The information will be provided within 20 working days

Once a request under the FOIA is received, all public authorities have two responsibilities under the Act:

- The duty to confirm or deny whether the information requested is held.
- The duty to communicate the information.

A public authority has **20 working days** to respond to the applicant, starting on the day following the date the request is received by the organisation.

FOIA Exemptions

There is an underlying presumption that information will be released. However exemptions exist within the FOIA to protect information from disclosure. For example, where disclosure would inhibit the ability of the Constabulary to carry out its core function of Law Enforcement.



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Exemptions will be engaged where there is justification to withhold information. Where no valid exemption applies the requested information will be released. Embarrassment to the Police and Crime Commissioner or Chief Constable or an individual member of the Constabulary is **not** a valid reason to prevent disclosure.

In most cases where an exemption is engaged, the public interest in disclosing the information will need to be balanced against the public interest in maintaining the exemption. Where the balance is equal the information will be disclosed.

Appeals Process

If an applicant is not satisfied with the response they receive, they can ask for an Internal Review of their request. This will be conducted in accordance with the NPCC APP for FOIA.

The request will be considered independently by a senior member of staff who was not involved in the original decision making process.

The Information Commissioner's Office (ICO) enforces and oversees the FOIA. If the applicant is not satisfied with the outcome of the Internal Review, they can ask the Information Commissioner to consider their complaint.

ICO Enforcement

A Decision Notice outlines the ICO's final assessment, following a complaint, as to whether or not a public authority has complied with the Act. These are catalogued and available online.

Enforcement action will be taken against public authorities that repeatedly fail to meet their responsibilities under the Act. An Enforcement Notice or Practice recommendations may be issued.

Personal Information

Personal Information will not normally be disclosed under the FOIA where:

- The applicant is the data subject – in such cases the applicant should make a Subject Access Request under the Data Protection Act.
- Where the release of the information would contravene any of the Data Protection Principles – this engages an exemption under Section 40 of the FOIA.

Information relating to an individual's public life (i.e. their work as a public official or employee) will not attract the same level of protection as that which relates to their private life. The individual's position and seniority will be taken into account when establishing what information may be disclosed – for example Chief Officers Expenses are routinely published as part of the Publication Scheme.

Responsibilities

- **The Data Protection Adviser** has overall responsibility for meeting the Chief Constable's obligations under the FOIA. The Information and ICV Coordinator is responsible for managing the Police and Crime Commissioner's obligations under the FOIA.
- **Information Disclosure (ID)** is part of Governance and Compliance and holds the responsibility for the day to day processing of and responding to requests made under the Act. The Data Protection Adviser is responsible for managing all aspects of the Constabulary's obligations under the FOIA, the Information and ICV Coordinator is responsible for managing all aspects of the OPCC's obligations under the FOIA.
- **Senior Managers** (Heads of Department or Division) have responsibility in ensuring their staff are compliant with the FOIA.
- **Single Points of Contact** have responsibility for:
 - o Co-ordinating all Freedom of Information requests in their business area.
 - o Liaising with Information Disclosure to progress requests.
 - o Alerting Heads of Department or Division to contentious information sourced as part of a Freedom of Information request.

A list of the Single Points of Contact along with their Detailed Responsibilities is available in the Information Disclosure section of the Constabulary Intranet. The Information and ICV Coordinator is the single point of contact for the OPCC.

- **All staff** are responsible for ensuring compliance with the FOIA, in particular:



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- o Passing on any Freedom of Information requests they receive promptly to Information Disclosure.
- o Engaging with Information Disclosure when information is sought for a request.
- o Managing the information that they hold in accordance with the Data Protection Act 1998 and Records Management Policy.
- o Being conscious that any information held by a public authority is subject to the FOIA and embarrassment or unprofessionalism is NOT a reason to prevent disclosure.
- o Recognising that it is an offence under section 77 of the FOIA to alter, deface, block, erase, destroy or conceal information requested under the FOIA with the intention to prevent disclosure of that information.

Identification, Monitoring and Review

This policy is based on legislation and will be kept under review by the Data Protection Adviser in accordance with the legislative requirements and with particular reference to changes in legislation.

Feedback relating to this policy can be made by telephone, in writing or by email to the Gloucestershire Constabulary Data Protection Adviser using the following contact details:

Data Protection Adviser
Governance and Compliance
Gloucestershire Constabulary
County Police HQ
No 1 Waterwells
Waterwells Drive
Quedgeley
Gloucester GL2 2AN
Telephone: 01452 754304
Email: FOI@gloucestershire.police.uk



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Freedom of Information Policy			
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1.6	12/12/2016	Remove reference to the ACPO Manual of Guidance for Data Protection and replace with the NPCC APP for Data Protection. Remove reference to the ACPO Manual of Guidance for Freedom of Information and replace with the NPCC APP for Freedom of Information. Remove all reference to Information Assurance Manager and replace with Data Protection Adviser.	
1.5	14/05/2014	Amended to reflect 2 nd transfer updates Remove all references to CIMB and replace with Information Assurance and Information Disclosure as appropriate Update to telephone numbers and email address including contact details for feedback	
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