**DECISION NUMBER: PCCG-2023-005**

**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE: Freedom of Information Annual Report 2022/23**

**DATE: July 2023**

**TIMING: Annual**

**PURPOSE: For Approval**

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| **1.** | **RECOMMENDATION**  That the Police and Crime Commissioner for Gwent monitors the performance of the office during 2022/2023 in relation to its statutory duties under the Freedom of Information Act 2000 (FOIA). |
| **2.** | **INTRODUCTION & BACKGROUND**  The FOIA provides access to information held by public authorities. Under the FOIA, public authorities are obliged to publish certain information about their activities, this is referred to as a Publication Scheme. Members of the public are also entitled to request any recorded information held by them.  The FOIA states that disclosure of information should be the default and only kept private when there is a good reason.  The main functions of dealing with requests are as follows:   * Determine if the request falls within the legislation or if it could be treated as business as usual; * Acknowledge, record and ensure the request is completed within the required 20 working day timeframe and sent to the requester; * Determine if information can be published or if an exemption needs to be invoked; * Give a clear explanation as to why information has been withheld and the reasons why the balance of public interest is against disclosure; * Provide advice and guidance to members of the public and staff asked to assist with requests; * Ensure the correct process is followed if an appeal is received; and * Be the point of contact for the Information Commissioner’s Office (ICO).   Updates in relation to compliance with FOIA requests are provided to the OPCC Planning and Performance Meeting on a monthly basis by the Head of Assurance and Compliance. |
| **3.** | **ISSUES FOR CONSIDERATION**  Between 1st April 2022 and 31st March 2023, the OPCC received 37 FOIA requests; 1 of these requests did not fall within FOIA legislation as it requested comments that were not recorded. 1 other request was not valid as it did not contain the requesters name. As such only 35 requests are considered for statistical purposes.  Although the number of requests received has decreased since 2021/22, an increase is still being sustained over the numbers received in previous years with 28 in 2019/20 and 29 in 2020/21. The requests received by the OPCC in 2022/23 that were for information held by Gwent Police were still the largest number of requests submitted, with a total of 27 received. This compared to 42 in 2021/22 and 14 in 2020/21. Although the number of requests has reduced from 2021/22, they are still significantly higher than 2020/21 and 2019/20. This continued increase over the last 2 years has been attributed to the adoption by Gwent Police of Single Online Home (SOH) which is the national website format adopted by all police forces in England and Wales. In order to submit an FOI request, the public must now find the relevant section of the force website and submit their request via an online form; this is more complicated than writing and submitting an email and the requester no longer has a record of that request being made. This has previously been raised with Gwent Police with feedback provided to the national SOH team.  All requests were received via email.  Identification of Requester  There is no requirement under the FOIA for a requester to detail the reason for the request, they do, however, have to provide a name and address for correspondence. Based only on the information freely provided by requesters, the table below shows where the requests came from in 2022/23 when compared to 2021/22:   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **Requester** | **Number 21/22** | **Percentage 21/22** | **Number 22/23** | **Percentage 22/23** | | General Public | 36 | 56% | 21 | 60% | | Media | 3 | 5% | 3 | 9% | | Business | 17 | 27% | 5 | 13% | | Charities | 3 | 5% | 3 | 9% | | Politicians | 1 | 1% | 2 | 6% | | Students | 2 | 3% | 1 | 3% | | Other | 2 | 3% | - | - |   The above table shows that most FOIA requests were submitted by the general public although it is possible that those submitting requests did not identify themselves to the OPCC as falling within another category.  Requests per Work Stream  In 2022/23, the ‘Other’ category showed the highest number of requests which was consistent with 2021/22 and 2020/21. ‘Other’ covers singular requests, for example where only one request of that nature has been received and also covers those requests where the information requested was operational and therefore held by Gwent Police. Finance and queries relating to OPCC staffing and costs continues to be one of the most popular workstreams with similar requests submitted year on year despite the majority of this information being freely available on the OPCC website. However, in 2022/23, we received requests for the first time relating to misconduct hearings to which we appoint Legally Qualified Chairs and Independent Panel members.  Timeliness Timeliness in responding to requests for information during 2022/23 within 20 working days was 94%. This equates to 2 requests being sent outside of the 20 working day requirement. 1 request was sent within 21 working days and was delayed due to the absence of key members of staff. 1 request was significantly delayed (responded to within 43 working days) as it related to a complicated misconduct process and we were awaiting legal advice prior to responding to ensure no sensitive information was released unlawfully.  Exemptions and Refusals  The FOIA outlines a number of exemptions that can be utilised to prevent the release of sensitive information. There is a presumption that information will be released unless there is a good reason for it to be withheld.  Of the 35 valid requests received, 26 were refused because the OPCC did not hold the information that was requested with an additional 3 fully or partly refused utilising an exemption.  The majority of the requests refused were for operational policing information. Where appropriate, the requester was provided with the contact details of the Gwent Police Freedom of Information department.  A detailed breakdown of the exemptions and the number of times they have been utilised is included at appendix 1.  Appeals All responses to requests received under the FOIA require details of the internal appeals process to be included. The Chief Executive is responsible for all internal appeals received in relation to the FOIA.  During 2022/23, no requests for an appeal were received by the OPCC.  Information Commissioner’s Office  After the internal appeals process has been exhausted and if the requester is still unhappy with the response provided by the OPCC, they have a right of appeal to the ICO. The public are also able to contact the ICO in other instances such as if the 20 working day time limit is not being met.  No contact was received from the ICO during 2022/23.  Publication Scheme  The FOIA requires every public authority to have a publication scheme approved by the ICO. There is a specific definition document for Elected Local Policing Bodies (otherwise referred to as OPCCs) produced by the ICO that indicates what information should be published in order to meet the commitments under the model publication scheme, although the list provided is not exhaustive.  The HoAC is responsible for ensuring the OPCC complies with the requirements of the publication scheme and can confirm that the OPCC was compliant with the requirements set out in the definition document as of March 2023.  All requests received under the FOIA and their responses are published on the OPCC website as per the requirements of the publication scheme.  Records Management  Good records management is fundamental to being able to respond to requests under the FOIA accurately and within the required 20 working day timeframe.  During 2021/22, a review of all hard copy documents was finalised. There is minimal hard copy documentation held by the OPCC with the majority of this being suitable for scanning after which the hard copies will be disposed. Work to scan and file the hard copy documentation was due to start during 2022/23 but this has been delayed due to demands on resource. It is hoped that this will be started during 2023/24. |
| **4.** | **NEXT STEPS**  Work will continue to ensure we respond to requests within the statutory timeframe and that we continue to provide information requested by the public where possible.  To ensure the public access the correct information in as efficient way as possible, we will continue to raise the distinctions between the force and OPCC to ensure future requests are sent to the most appropriate organisation. |
| **5.** | **FINANCIAL CONSIDERATIONS**  All FOIA requests must be responded to free of charge unless it is estimated that providing the information will cost more than the acceptable limit of £400 (£25 per hour/18 hours) (although we are able to charge for items such as postage and photocopying).  No charges were made in relation to FOIA requests in 2022/23.  The ICO is not able to fine an organisation if they fail to comply with the FOIA. |
| **6.** | **PERSONNEL CONSIDERATIONS**  The Governance Officer took over responsibility for dealing with FOIA requests from 1st April 2019. The HoAC approves all responses before release, with all appeals dealt with by the Chief Executive. The Head of Communications and Engagement is sighted on FOI requests to try to determine if there is likely to be any media interest in the information made available.  All staff members involved within the FOIA process have received relevant training. |
| **7.** | **LEGAL IMPLICATIONS**  There are number of legal requirements that we need to comply with when responding to requests for information and we may breach the FOIA if we:   * fail to respond adequately to a request for information; * fail to adopt the model publication scheme, or do not publish the correct information; or * deliberately destroy, hide or alter requested information to prevent it being released.   The final point detailed above is the only criminal offence under the FOIA that individuals and public authorities can be charged with; it is therefore imperative that all staff within the OPCC are aware of their responsibilities in relation to FOIA and good records management.  The ICO will often try to resolve complaints informally although they do have the power to issue legally binding enforcement or decision notices which will detail what you need to do to resolve the issue identified. To date the OPCC has not received an enforcement or decision notice from the ICO. |
| **8.** | **EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS**  This report has been considered against the general duty to promote equality, as stipulated under the Strategic Equality Plan and has been assessed not to discriminate against any particular group.  Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report. |
| **9.** | **RISK**  There is a reputational risk to the OPCC if the 20 working day timeframe is not adhered to and a complaint is made to the ICO. Not adhering to processes could also have an impact on public confidence of the police service, not just in Gwent, but nationally. |
| **10.** | **PUBLIC INTEREST**  This report can be made available to the public. It is best practice to produce and publish statistics in relation to FOIA requests. |
| **11.** | **CONTACT OFFICER**  Joanne Regan, Head of Assurance and Compliance |
| **12.** | **ANNEXES**  Appendix 1 – FOIA Statistics. |

**For OPCC use only**

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| **Police and Crime Commissioner for Gwent**  I confirm that I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct.  The above request has my approval. |
| **Signature:** |
| **Date:**  **23/08/2023** |