

DECISION NUMBER: PCCG-2020-002

OFFICE OF POLICE AND CRIME COMMISSIONER

LEAD CHIEF OFFICER: Chief Executive

TITLE: Office of the Police and Crime Commissioner for Gwent Freedom of Information Annual Report 2019/20

DATE: April 2020

TIMING: Annual

PURPOSE: For Monitoring

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| 1. | <u>RECOMMENDATION</u> That the Police and Crime Commissioner for Gwent monitors the performance of his office during 2019/2020 in relation to the Freedom of Information Act 2000 (FOIA). |
| 2. | <u>INTRODUCTION & BACKGROUND</u> 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. During 2019/20 FOIA requests were handled by the Governance Officer (GO) with approval for requests provided by the Head of Assurance and Compliance (HoAC). The main functions of dealing with requests are as follows: <ul style="list-style-type: none">➤ 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 progress with FOIA requests are provided to the OPCC |

Management Board on a monthly basis by the HoAC.

Comparative data is available for each year since 2016 and is included at appendix 1 of this report.

3. ISSUES FOR CONSIDERATION

Between 1st April 2019 and 31st March 2020 the OPCC received 28 FOIA requests; the number of requests received has shown a slight increase (n=4) when compared to previous years. This is likely to be due to those requests that have been sent to the OPCC that were meant for Gwent Police being recorded for the first time in 2019/20. 27 of the requests received in 2019/20 were sent via email with 1 received via post. Email continues to be the primary form of contact in relation to the FOIA.

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 2019/20 when compared to 2018/19:

| Requester | Number 18/19 | Percentage 18/19 | Number 19/20 | Percentage 19/20 |
|-------------------|---------------------|-------------------------|---------------------|-------------------------|
| General Public | 17 | 71% | 14 | 50% |
| Media | 2 | 8% | 2 | 7% |
| Business | 3 | 13% | 6 | 21% |
| Charities | 1 | 4% | 3 | 11% |
| Political Parties | 1 | 4% | 2 | 7% |
| Students | Not Recorded | Not Recorded | 1 | 4% |

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 e.g. being a journalist. This is the same as in 2018/19, with requests from businesses again being the second highest source of demand.

PCC Election & Covid-19 Outbreak

Due to the outbreak of Covid-19 during the early part of 2020, the planned PCC elections due to be held in May 2020 were postponed to May 2021. Therefore, the expected increase in requests related to the election has not materialised.

Requests per Work Stream

The table below provides evidence of the most popular work streams for requests to be submitted against:

2019/20

| Work stream | Number | Percentage |
|--------------------------|---------------|-------------------|
| Finance | 3 | 11% |
| Policies and Legislation | 4 | 14% |
| Other ¹ | 13 | 46% |

2018/19

| Work stream | Number | Percentage |
|--------------------|---------------|-------------------|
| Finance | 2 | 8% |
| IT | 4 | 17% |
| Victim Services | 2 | 8% |
| Other ² | 13 | 54% |

In both 2018/19 and 2019/20, the 'Other' category shows the highest number of requests. 'Other' also covers singular requests, for example where only one request of that nature has been received. In 2019/20 this also covers those requests where the information requested was operational and therefore held by Gwent Police. Finance continues to be one of the most popular workstreams across both years and mainly consists of requests for information relating to office salaries and costs.

Timeliness

Timeliness in responding to requests for information during 2019/20 fell to 96% from 100% in 2018/19. This was due to a request for information being received into the OPCC but not passed to the GO to respond to due to human error; it's unlikely that this will happen again in future. Once identified an apology was immediately sent to the requester. Fortunately the request was straight forward and we were able to provide a response the same day. There has been no further contact from the requester in relation to the delay in our response. The reduction of 4% in our compliance rate relates to 1 request out of a total of 28 received during 2019/20. The request was responded to within 30 working days of it being received into the OPCC.

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 28 requests received, 15 were refused under one or more exemptions or

¹ Includes areas such as pension forfeiture hearings and requests for information held by Gwent Police.

² Includes areas such as electoral fraud, county lines and CoPACC Transparency Award.

because the OPCC did not hold the information that was requested. The only exemption used to refuse a request in full was Section 12 where the request would have exceeded the time/cost limit. In this scenario, Section 16 of the FOIA requires assistance to be provided to the requester to enable them to narrow their request so it falls within the time frame allowed. In relation to this request, no further correspondence was received in relation to the offer of assistance.

One exemption was utilised as part of a response to a request, Section 40(2) whereby personal data was redacted from documents that were provided. Advice was also provided to a requester to ensure in future, all requests were sent in with their full name provided at the bottom of the request as per Section 8 of the FOIA. The reason this request was accepted as valid was due to the requester's name appearing in the 'From' section of the email and was based on advice received by experts in the field of the FOIA.

The remaining 14 requests refused were those whereby the OPCC did not hold the information being requested. The majority of these requests were for operational policing information; where appropriate the requester was provided with the contact details of the Gwent Police Freedom of Information department or with the name of the organisation which may hold the information they requested.

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 2019/20, no requests for an appeal were received by the OPCC.

After the internal appeals process has been exhausted and if the requester is still unhappy with the response, they have a right of appeal to the ICO. No contact was received by the OPCC from the ICO during 2019/20.


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 our commitments under the model publication scheme, although the list provided is not exhaustive.

The HoAC is responsible for ensuring the OPCC complies with the

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| | <p>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 2020.</p> <p>All requests received under the FOIA and their responses are published on the OPCC website as per the requirements of the publication scheme.</p> <p><u>Records Management</u></p> <p>Good records management is fundamental to being able to respond to requests under the FOIA accurately and within the required 20 working day timeframe.</p> <p>During 2019/20, the OPCC Retention Schedule has been approved and a review of all hard copy documents within our stores have been completed. Work to continue the review of documents in individual offices will continue into 2020/21. Each area on the retention schedule has been allocated an ‘owner’ who will be responsible for ensuring that a review is undertaken of all hard copy and electronic information held is undertaken on a 6 monthly basis. The first reminder for this piece of work to be completed will be circulated in October 2020.</p> |
| <p>4.</p> | <p><u>NEXT STEPS</u></p> <p>It has been agreed that in 2020/21 all authorisations provided by the HoAC to the GO will also be sent to the Head of Communications and Engagement. This will allow internal awareness of any potential press activity that may arise as a result of any FOIA requests responded to.</p> <p>Routine monitoring of the website to ensure compliance with the publication scheme will continue to take place in 2020/21.</p> <p>The HoAC is now expecting to see an increase in requests in late 2020/21 due to the postponed PCC elections that are due to take place in May 2021. Any increase will be monitored closely and concerns raised with the Chief Executive if necessary.</p> <p>Whilst the OPCC is on lockdown and everyone is working from home due to the Covid-19 pandemic, it has been requested that all staff review the information they store in their emails and ensure it is saved or deleted as appropriate. It is also the ideal time for those who have been identified as not utilising the shared network drive appropriately to ensure that work is undertaken during this period in order to comply with data protection requirements. This will ensure that only relevant information is kept by the OPCC and subsequently provided under the FOIA. It will also ensure that all information we hold is easily accessible to all who need to access it.</p> |
| <p>5.</p> | <p><u>FINANCIAL CONSIDERATIONS</u></p> |

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| | <p>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.</p> <p>No charges were made in relation to FOIA requests in 2019/20.</p> <p>The ICO are not able to fine an organisation if they fail to comply with the FOIA.</p> |
| 6. | <p><u>PERSONNEL CONSIDERATIONS</u></p> <p>The GO 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.</p> <p>The GO has attend training specific to OPCCs in Summer 2019. Ongoing support will continue to be provided by the HoAC throughout 2020/21.</p> <p>All staff members involved within the FOIA process have received relevant training.</p> |
| 7. | <p><u>LEGAL IMPLICATIONS</u></p> <p>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:</p> <ul style="list-style-type: none"> ➤ 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. <p>The final point is the only criminal offence in 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.</p> <p>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.</p> |
| 8. | <p><u>EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS</u></p> <p>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.</p> <p>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.</p> |

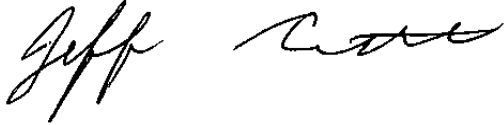
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| <p>9.</p> | <p><u>RISK</u></p> <p>There is a reputational risk to the OPCC if the 20 working day timeframe is not adhered to and a complaint is made to the ICO. As mentioned previously, during 2019/20 the OPCC responded to 1 request outside of the 20 working day timeframe, the requester was understanding and we responded to the request as soon as it was brought to our attention. No complaint was therefore made to the ICO on this occasion.</p> <p>There is also a risk that with poor records management compliance within the OPCC that not all information may be provided when responding to a request again causing a reputational risk if a complaint is made, although records management practices are improving. Not adhering to processes could also have an impact on public confidence of the police service, not just in Gwent, but nationally.</p> |
| <p>10.</p> | <p><u>PUBLIC INTEREST</u></p> <p>This report can be made available to the public. It is best practice to produce and publish statistics in relation to FOIA requests.</p> |
| <p>11.</p> | <p><u>CONTACT OFFICER</u></p> <p>Joanne Regan, Head of Assurance and Compliance</p> |
| <p>12.</p> | <p><u>ANNEXES</u></p> <p>Appendix 1 – 2019/20 FOIA Statistics.</p> <p></p> <p>2020-002 FOI Annual Report 19-20 App.doc</p> |

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:

A handwritten signature in black ink, appearing to read "Jeff Cook". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

Date: 14.04.2020