

DECISION NUMBER: PCCG-2019-019

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 2018/19

DATE: April 2019

TIMING: Annual

PURPOSE: For Monitoring

1.	<u>RECOMMENDATION</u> That the Police and Crime Commissioner for Gwent monitors the performance of his office during 2018/19 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 2018/19 the majority of FOI requests submitted to the Office of the Police and Crime Commissioner (OPCC) for Gwent were handled by the Head of Assurance and Compliance (HoAC) due to there being a vacancy for a Governance Officer. This role has now been filled and will be the main point of contact for FOIA requests in 2019/20, overseen by the 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.

Comparative data is available from 2016 and is included at appendix 1 of this report.

3. ISSUES FOR CONSIDERATION

Between April 2018 and March 2019 the OPCC received 24 FOIA requests; the number of FOI requests received has remained stable over a three year period (see appendix 1). All FOI requests received in 2018/19 were sent 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:

Requester	Number	Percentage
General Public	17	71%
Media	2	8%
Business	3	13%
Charities	1	4%
MPs	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.

Requests per Work Stream

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

Work stream	Number	Percentage
HR	1	4%
Finance	2	8%
Commissioning	1	4%
IT	4	17%
Communications	1	4%
Victim Services	2	8%
Other ¹	13	54%

¹ Includes areas such as electoral fraud, county lines and CoPACC Transparency Award.

The 'Other' category shows the highest number of requests and covers those that do not fit into a clear work stream. There is no consistency of any of the requests within the 'Other' work stream, however it does include a request that was made vexatious and the additional 5 requests linked to it that were submitted which has increased the number in this area considerably.

Timeliness

All FOIA requests continue to be responded to within the 20 working day timeframe.

Exemptions and Refusals

The FOIA outlines a number of exemptions that can be utilised to prevent the release of sensitive information. It is the presumption that information will be released unless there is a good reason for it to be withheld.

Of the 24 requests received, 13 were refused under one or more exemptions or because the OPCC did not hold the information that was requested. Across the three year reporting period, similar exemptions were utilised, the most common falling under Section 8 where a request is not valid and under S40(2) which relates to information containing the personal information of other people.

A number of requests were also refused and returned to the requester to inform them that the OPCC did not hold the information they were requesting. Where possible the requester was provided with the name of the organisation who may hold the information they required.

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 2018/19, 1 request for an appeal was received by the OPCC. After review it was not upheld and suggested that the original response should have been made vexatious based on the available evidence.

After the internal appeals process has been exhausted and 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 2018/19.

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 comply with the requirements of the publication scheme. To assist in meeting these requirements, a new OPCC website has been developed allowing easier navigation and access to information. The OPCC was compliant with the requirements set out in the definition document for OPCCs as of March 2019.

All requests received under the FOIA and their responses are published on the OPCC website as per the requirements of the publication scheme.

FOIA Section 45 Code of Practice

The Cabinet Office is required to produce guidance to public authorities on the discharge of their functions and responsibilities under Part 1 (Access to information held by public authorities) of the FOIA. Updated guidance was issued under Section 45 of the FOIA in July 2018.

The HoAC has amended the OPCC's FOI procedure documentation to reflect the updated guidance.

4. NEXT STEPS

The Governance Officer has now commenced their role and will start answering FOI requests from 1st April 2019. Training has been attended with further training specific to OPCC's taking place in July 2019. Support will continue to be provided by the HoAC throughout 2019/20.


Currently the OPCC receive a number of requests that can only be answered by Gwent Police. We currently respond, informing the requester that we do not hold the information and that they may wish to submit their response to Gwent Police; these requests are not recorded. From 1st April 2019, these requests will be recorded so they can be included in our statistics to accurately reflect the number of requests we have handled.

Routine monitoring of the website to ensure compliance with the publication scheme will continue to take place in 2019/20.

The HoAC is expecting to see an increase in requests in late 2019/20 due to the PCC elections that are due to take place in May 2020. Any increase will be monitored closely and concerns raised with the Chief Executive if necessary.

Good records management is the backbone of being able to respond to requests under the FOIA accurately and within the required 20 working day timeframe. There are a number of individuals within the organisation that do not follow good records management procedures and do not utilise the shared

	<p>networked drive appropriately. An audit has been undertaken of this shared drive and individuals will be spoken to during 2019/20. Consideration will also be given to providing records management training to all OPCC staff. The store cupboard within the OPCC will also be reviewed once the records retention schedule has been finalised. This will ensure that only relevant information is provided under the FOIA and that it is easily accessible to all who need to access it.</p>
<p>5.</p>	<p><u>FINANCIAL CONSIDERATIONS</u></p> <p>All FOI 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 2018/19.</p> <p>The ICO are not able to fine an organisation if they fail to comply with the FOIA.</p>
<p>6.</p>	<p><u>PERSONNEL CONSIDERATIONS</u></p> <p>The Governance Officer is now in post and will take over responsibility of dealing with FOIA requests. The HoAC will approve them before release, with all appeals dealt with by the Chief Executive.</p> <p>All staff members involved within the FOIA process have received relevant training.</p>
<p>7.</p>	<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>

<p>8.</p>	<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>
<p>9.</p>	<p><u>RISK</u></p> <p>There is a reputational risk to the OPCC if the 20 working day time frame is not adhered to and a complaint is made to the ICO. 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. 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 FOI 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 – 2018-19 FOIA Statistics.</p> <div style="text-align: center;">  <p>2018-19 FOI Statistics.docx</p> </div>

For OPCC use only

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:

11/4/19

