

DECISION NUMBER: PCCG-2022-011

OFFICE OF POLICE AND CRIME COMMISSIONER

TITLE: Office of the Police and Crime Commissioner for Gwent Freedom of Information Annual Report 2021/22

DATE: May 2022

TIMING: Annual

PURPOSE: For Approval

1.	<u>RECOMMENDATION</u> That the Police and Crime Commissioner for Gwent monitors the performance of his office during 2021/2022 in relation to our statutory duties under 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 2021/22 FOIA requests were handled by the Governance Officer (GO) with approval for requests provided by the Head of Assurance and Compliance (HoAC). The Head of Communications and Engagement was also sighted on all requests in order to determine if any information provided may result in press interest. 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 compliance with FOIA requests are provided to the OPCC Management Board on a monthly basis by the HoAC.

3. ISSUES FOR CONSIDERATION

Between 1st April 2021 and 31st March 2022, the OPCC received 65 FOIA requests; 1 of these requests did not fall within FOIA legislation and was subsequently passed to Gwent Police for a response to be provided. As such only 64 requests are considered for statistical purposes.

The number of requests received has increased significantly when compared to previous years with 24 received in 2018/9, 28 in 2019/20 and 29 in 2020/21. The number of requests received by the OPCC in 2021/22 that were for information held by Gwent Police saw the largest rise with 39 received compared to 14 in 2020/21, an increase of 25 (179%). There is no obvious reason for the increase in requests to the OPCC other than it correlates to the move by Gwent Police to 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. Significant increases have also been seen by the OPCC in relation to the number of Subject Access Requests we have received during 2021/22 that were for information held by Gwent Police which may support the theory behind the increase being the move to SOH.

This has been raised with Gwent Police and it has been acknowledged and has been fed back to the national SOH team for consideration. In the interim, the OPCC ensures anyone submitting a request incorrectly is provided with the correct contact details for Gwent Police in order to ensure they receive a timely response to any future requests they may make.

63 requests were received via email, with 1 request received via Twitter in 2021/22.

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 2021/22 when compared to 2020/21:

Requester	Number 21/22	Percentage 21/22	Number 21/22	Percentage 21/22
General Public	20	70%	36	56%
Media	2	7%	3	5%
Business	3	10%	17	27%

Charities	1	3%	3	5%
Political Parties	2	7%	1	1%
Students	1	3%	2	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.

Despite being informed on numerous occasions that operational policing information was not held by the OPCC but that contact would need to be made by Gwent Police, one particular business continued to submit multiple requests to the OPCC. A separate email was sent to the business highlighting that we are not the correct organisation to send these requests to and requested that they update their contact list. Hopefully this will resolve the issue in future.

Requests per Work Stream

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

2021/2022

Work stream	Number	Percentage
Commissioning	3	5%
OPCC Staffing and Costs	4	6%
Estates	4	6%
Procurement	6	10%
Other ¹	47	73%

In 2021/22, the 'Other' category showed the highest number of requests which was consistent with 2020/21 and 2019/20. '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. To provide some context, of the 39 requests received for information held by Gwent Police, 31 of these related to statistical information relating to crime/ASB. In 2021/22, 4 requests were received requesting information on the estate, requests such as these had not previously been received by the OPCC. 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.

¹ As well as requests for statistical information, this also includes areas such as complaints, misconduct and policy requests.

Timeliness

Timeliness in responding to requests for information during 2021/22 was maintained at 100%.

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 64 requests received, 39 were refused because the OPCC did not hold the information that was requested with an additional 4 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 2021/22, 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 2021/22.

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 requirements of the publication scheme and can confirm that the OPCC was

	<p>compliant with the requirements set out in the definition document as of March 2022.</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 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 will start in 2022/23.</p>
4.	<p><u>NEXT STEPS</u></p> <p>Work will continue to ensure we maintain our compliance with the timeframe and that we continue to provide information requested by the public where possible.</p> <p>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.</p>
5.	<p><u>FINANCIAL CONSIDERATIONS</u></p> <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 2021/22.</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. 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.</p> <p>All staff members involved within the FOIA process have received relevant training.</p> <p>It must be noted that there has been a significant increase in the number of FOIA requests that have been processed by the OPCC during 2021/22. This</p>

	<p>extra demand has had a significant impact on the work of the Governance Officer. A new role to support the Governance and Complaints function within the OPCC is being progressed and should assist in supporting other areas of the Governance Officer's work in the future.</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 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.</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 timeframe is not adhered to and a complaint is made to the ICO.</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>Resourcing must also be considered as a current risk as the increase in demand placed on the Governance Officer in responding to the requests is significant. Due to the legal requirement to respond to requests within a 20</p>

	working day timeframe, other work often needs to be postponed in order to ensure we continue to comply with our legal requirement under FOIA legislation. As mentioned previously, additional support is being brought into the Governance function which will alleviate some of the increased pressure placed on the Governance Officer.
10.	<u>PUBLIC INTEREST</u> This report can be made available to the public. It is best practice to produce and publish statistics in relation to FOIA requests.
11.	<u>CONTACT OFFICER</u> Joanne Regan, Head of Assurance and Compliance
12.	<u>ANNEXES</u> Appendix 1 – FOIA Statistics.

For OPCC use only

<p>Police and Crime Commissioner for Gwent</p> <p>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.</p> <p>The above request has my approval.</p>
<p>Signature:</p> 
<p>Date:</p> <p>16/05/2022</p>