

**DECISION NUMBER: PCCG-2021-007**

**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE: Office of the Police and Crime Commissioner for Gwent Freedom of Information Annual Report 2020/21**

**DATE: June 2021**

**TIMING: Annual**

**PURPOSE: For Monitoring**

<b>1.</b>	<b><u>RECOMMENDATION</u></b> That the Police and Crime Commissioner for Gwent monitors the performance of his office during 2020/2020 in relation to the Freedom of Information Act 2000 (FOIA).
<b>2.</b>	<b><u>INTRODUCTION &amp; BACKGROUND</u></b> 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 2020/21 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"><li>➤ Determine if the request falls within the legislation or if it could be treated as business as usual;</li><li>➤ Acknowledge, record and ensure the request is completed within the required 20 working day timeframe and sent to the requester;</li><li>➤ Determine if information can be published or if an exemption needs to be invoked;</li><li>➤ Give a clear explanation as to why information has been withheld and the reasons why the balance of public interest is against disclosure;</li><li>➤ Provide advice and guidance to members of the public and staff asked to assist with requests;</li><li>➤ Ensure the correct process is followed if an appeal is received; and</li><li>➤ Be the point of contact for the Information Commissioner's Office (ICO).</li></ul> Updates in relation to compliance with FOIA requests are provided to the OPCC Management Board on a monthly basis by the HoAC.

In previous reports, comparative data was made available for each year since 2016 but for 2020/21 only data from 2018/19 onwards is included at appendix 1 of this report. This is due to a change in reporting timeframes from calendar to financial year for 2018/19 onwards so provides a more accurate statistical comparison.

**3. ISSUES FOR CONSIDERATION**

Between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2021 the OPCC received 31 FOIA requests; 1 of these requests was a joint request with Gwent Police and was responded to on behalf of both organisations by the force, another request was meant for Essex Police and the requester was informed of their error. As such only 29 requests are considered for statistical purposes.

The number of requests received is consistent with 2019/20. The increase from 2018/19 to 2019/20 is as a result of the OPCC recording and formally responding with a 'no information held' response to requests for Gwent Police. All requests were received via email in 2020/21.

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 2020/21 when compared to 2019/20:

<b>Requester</b>	<b>Number 19/20</b>	<b>Percentage 19/20</b>	<b>Number 20/21</b>	<b>Percentage 20/21</b>
General Public	14	50%	20	70%
Media	2	7%	2	7%
Business	6	21%	3	10%
Charities	3	11%	1	3%
Political Parties	2	7%	2	7%
Students	1	4%	1	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 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:

**2020/21**

<b>Work stream</b>	<b>Number</b>	<b>Percentage</b>
Finance & Commissioning	4	14%
OPCC Staff Roles	3	10%
Other <sup>1</sup>	22	76%

In 2020/21, the 'Other' category shows the highest number of requests. This is consistent with 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. 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.

Only 1 FOI was received that related to coronavirus. This is due to the information that would have been of interest to the public being held by Gwent Police.

**Timeliness**

Timeliness in responding to requests for information during 2020/21 increased to 100% from 96% in 2019/20.

**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 29 requests received, 14 were refused because the OPCC did not hold the information that was requested, 0 were 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.

<sup>1</sup> Includes areas such as contracts, complaints and policy requests.

	<p>During 2020/21, no requests for an appeal were received by the OPCC.</p> <p><u>Information Commissioner's Office</u></p> <p>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.</p> <p>No contact was received by the OPCC from the ICO during 2020/21.</p> <p><u>Publication Scheme</u></p> <p>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.</p> <p>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 2021.</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 2020/21, a review of all hard copy documents has been continued, with work ongoing into 2021/22. This work has been delayed due to the coronavirus pandemic but aims to be finished prior to the move to the new police headquarters in late 2021.</p>
<p><b>4.</b></p>	<p><b><u>NEXT STEPS</u></b></p> <p>The HoAC is now expecting to see an increase in requests at the start of 2021/22 due to the postponed PCC elections that are due to take place in May 2021.</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><b>5.</b></p>	<p><b><u>FINANCIAL CONSIDERATIONS</u></b></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 2020/21.</p> <p>The ICO are not able to fine an organisation if they fail to comply with the FOIA.</p>
<p><b>6.</b></p>	<p><b><u>PERSONNEL CONSIDERATIONS</u></b></p> <p>The GO took over responsibility for dealing with FOIA requests from 1<sup>st</sup> 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><b>7.</b></p>	<p><b><u>LEGAL IMPLICATIONS</u></b></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"> <li>➤ fail to respond adequately to a request for information;</li> <li>➤ fail to adopt the model publication scheme, or do not publish the correct information; or</li> <li>➤ deliberately destroy, hide or alter requested information to prevent it being released.</li> </ul> <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><b>8.</b></p>	<p><b><u>EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS</u></b></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>

9.	<p><b><u>RISK</u></b></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>
10.	<p><b><u>PUBLIC INTEREST</u></b></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>
11.	<p><b><u>CONTACT OFFICER</u></b></p> <p>Joanne Regan, Head of Assurance and Compliance</p>
12.	<p><b><u>ANNEXES</u></b></p> <p>Appendix 1 – 2020/21 FOIA Statistics.</p> <div style="text-align: center;">  <p>2021-007 FOI Annual Report 20-21 Ap1.doc</p> </div>

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<p><b>Police and Crime Commissioner for Gwent</b></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><b>Signature:</b></p> 
<p><b>Date:</b></p> <p>30/06/2021</p>