

**DECISION NUMBER: PCCG-2024-005**

**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE: Freedom of Information Annual Report 2023/24**

**DATE: June 2024**

**TIMING: Annual**

**PURPOSE: For Approval**

<b>1.</b>	<b><u>RECOMMENDATION</u></b> That the Police and Crime Commissioner for Gwent monitors the performance of the office during 2023/2024 in relation to its statutory duties under 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.  The FOIA states that disclosure of information should be the default and only kept private when there is a good reason.  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 (HoAC).
<b>3.</b>	<b><u>ISSUES FOR CONSIDERATION</u></b> Between 1 <sup>st</sup> April 2023 and 31 <sup>st</sup> March 2024, the OPCC received 39 FOIA requests; 1 of these requests was responded to under the Environmental Information Regulations (EIR) as it related to the demolition of the former police headquarters building.  Although the number of requests received has decreased since 2021/22, they have remained relatively consistent over the previous 2 financial years. The requests received by the OPCC in 2023/24 that were for information held by Gwent Police remain the largest number of requests submitted, with a total of 26 received. This compared to 27 in 2022/23 and 42 in 2021/22. All requests were received via email.  <b><u>Identification of Requester</u></b> 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 2023/24 when compared to 2022/23:

Requester	Number 22/23	Percentage 22/23	Number 23/24	Percentage 23/24
General Public	21	60%	26	67%
Media	3	9%	3	8%
Business	5	13%	6	15%
Charities	3	9%	1	2%
Politicians	2	6%	0	0%
Academics/Students	1	3%	3	8%

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.

#### Popular Workstreams

The commissioning undertaken by the PCC has become a popular workstream, requests for information relating to misconduct hearings has also continued to be popular, likely due to the high profile cases both nationally and specifically to Gwent over the last few years.

#### Timeliness

Timeliness in responding to requests for information during 2023/24 within 20 working days was 97%. This equates to 1 response being sent outside of the 20 working day requirement. The requester had written to both the OPCC and Gwent Police on the same matter. The OPCC response was sent after 42 working days and was delayed as national advice from the Central Referral Unit meant Gwent Police's response had to be sent before the OPCC response could be issued.

#### 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 39 valid requests received, 26 were refused because the OPCC did not hold the information that was requested, with an additional 6 partly refused as the OPCC held only some of the information requested.

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.

#### Internal Review

All responses to requests received under the FOIA require details of the

internal review process to be included. The Chief Executive is responsible for all internal reviews received in relation to the FOIA.

During 2023/24, no requests for a review were received by the OPCC.

Information Commissioner's Office

After the internal appeals process has been exhausted and if the requester is still dissatisfied 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 2023/24.

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 undertakes an audit annually. A significant amount of work was undertaken across the OPCC, which was monitored via the monthly Planning and Performance Meeting chaired by the Chief Executive, to ensure compliance was achieved in 2023/24.

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

**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.

	<p>The ICO is not able to fine an organisation if they fail to comply with the FOIA.</p>
6.	<p><b><u>PERSONNEL CONSIDERATIONS</u></b></p> <p>The Governance Officer 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 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>
7.	<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>
8.	<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. Not adhering to processes could also have an impact on public confidence in the police service, not just in Gwent, but nationally.</p>

10.	<p><b><u>PUBLIC INTEREST</u></b>  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>  Joanne Regan, Head of Assurance and Compliance</p>
12.	<p><b><u>ANNEXES</u></b>  Appendix 1 – FOIA Statistics.</p>

**For OPCC use only**

<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>	
<b>Signature:</b>	
<b>Date:</b>	4.12.2024



<b>REQUEST THEMES</b>				
Themes of requests	<b>OPCC Staff</b> (Job titles, role clarity) <b>Finance</b> (OPCC salaries/grant funding)	<b>OPCC</b> (Running costs/staff salaries)  <b>Procurement and Commissioning</b> (Specific contract and funding information)	<b>Misconduct Hearings</b> (LQC costs/Hearing documents)  <b>Equality, Diversity and Inclusion</b> (Staff numbers/training)	<b>Commissioning/Funding</b> (Specific contract and funding information)  <b>Misconduct Hearings/Pension Forfeiture Hearings</b> (Hearing documents/Questions relating to high profile hearings)
<b>Reason for Refusal</b>	<b>Number of times used 2020/21</b>	<b>Number of times used 2021/22</b>	<b>Number of times used 2022/23</b>	<b>Number of times used 2023/24</b>
No information held by the OPCC (sign posted to another organisation if known)	14	39	26	26
S8 - Request not valid	0	0	2	0
S12 - Time/cost limit exceeded	0	1	0	0
S14 - Request made vexatious	0	0	0	0
S21 - Information accessible by other means	0	0	1	1
S22 - Information intended for future publication	0	1	0	0
S23 - Information supplied by, or relating to, bodies dealing with security matters	0	0	0	0
S24 - National security	0	1	0	0
S26 – Defence	0	0	0	0
S27 - International relations	0	0	0	0
S28 - Relations within the United Kingdom	0	0	0	0
S29 - The economy	0	0	0	0
S30 - Investigations and proceedings conducted by public authorities	0	0	0	0
S31 - Law enforcement	0	1	0	1
S32 - Court records, etc	0	0	1	0
S33 - Audit functions	0	0	0	0
S34 - Parliamentary privilege	0	0	0	0
S35 – Formulation of government policy etc	0	0	0	0
S36 - Prejudice to effective conduct of public affairs	0	0	0	0
S37 - Communications with Her/His Majesty, and honours etc	0	0	0	0
S38 - Health and Safety	0	1	0	0
S40(1) - Applicant's own personal information	0	0	0	0
S40(2) - Personal information of other people	0	0	2	2
S40(5) – Neither confirm nor deny personal information is held	0	1	0	0
S41 - Information provided in confidence	0	0	0	0
S42 - Legal professional privilege	0	0	0	0
S43 - Commercial interests	0	0	1	0
S44 - Prohibitions on disclosure	0	0	0	0

FOIA REQUESTS		2020/21		2021/22		2022/23		2023/24	
Number of valid requests received	29	64	-	35	-	39	-		
Number of requests where queries were sent by the OPCC where no reply was received from the requester	2	2	3%	0	0%	0	0%	0	0%
Number of requests to the OPCC where information was provided in full (this appears relatively low due to the high volume of requests received being for information not held by the OPCC)	7	8	12%	2	6%	7	18%		
Number of requests where information was partly provided	5	12	19%	6	17%	6	15%		
Number of requests where information was not held/refused (the majority of requests received by the OPCC were for information held by Gwent Police)	14	42	66%	27	77%	26	67%		
Number of requests considered to be vexatious where no response was required	0	0	0%	0	0%	0	0%		
Average number of days taken to respond to a request	6	5	-	14	-	16	-		
Number & Percentage of requests responded to within 20 days	29	64	100%	33	94%	38	97%		
1 additional request was received jointly by Gwent Police and the OPCC. Gwent Police responded to the request on behalf of both organisations therefore no statistics are available									
1 additional request was received which was directed to call handling as did not fall within FOI legislation.									
1 additional request was received that was not valid under FOIA as it asked for comments. Requester informed and link provided to ICO website on how to make an FOI request.									
1 of the 39 requests received was responded to under the Environmental Information Regulations as it related to the demolition of the former Headquarters building.									
1 additional request was received for information not held by the OPCC and that was not valid as did not contain a real name. When a query was sent the email address was not available. This was checked with the SRS who confirmed that the fault was with the requester and not with the OPCC. Unable to contact requester any further.									
Number of appeals received	0	0	-	0	-	0	-		
Percentage of requests resulting in appeal	0%	0%	-	0%	-	0%	-		
Average number of days taken to respond to an appeal	0	0	-	0	-	0	-		
Number of appeals upheld	0	0	-	0	-	0	-		
Number of appeals not upheld	0	0	-	0	-	0	-		
Number of appeals sent to ICO by requester	0	0	-	0	-	0	-		