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**Office of the Police and Crime Commissioner – Devon & Cornwall**

**Policy Cover Sheet**

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# Office of the Police and Crime Commissioner – Devon & Cornwall Freedom of Information Policy

Version dated: 17 July 2014

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## **1.0 POLICY STATEMENT (FOIA - OPEN)**

1.1 The Office of the Police and Crime Commissioner is fully committed to complying with the Freedom of Information Act 2000 (FOIA) and its principles of openness and accountability of public authorities. The intention of this policy is to provide a framework for ensuring compliance with the provisions of the FOIA, in particular that:

- A growing proportion of information about the Office of the Police and Crime Commissioner is promoted to the public through the Publication Scheme;
- Information not available through the Publication Scheme is readily available on request, unless an exemption applies;
- Where reasonably practicable, information will be provided in a medium preferable to the applicant. When it is not reasonably practical we will notify the applicant of the reasons why.
- All requests for information are dealt with in a timely manner;
- Exemptions under the Act, and associated harm public interest tests, are applied appropriately;
- A fair and efficient internal appeal system is administered.

## **2.0 INTRODUCTION (FOIA - OPEN)**

2.1 The FOIA provides a general right of access to information held by public authorities, including the Office of the Police and Crime Commissioner, within 20 working days and subject to certain exemptions. The Act also places a duty on public authorities to adopt and maintain a Publication Scheme.

## **3.0 IMPLICATIONS OF THE POLICY (FOIA - OPEN)**

### **3.1 Introduction**

3.1.1 The application of the FOIA is the responsibility of every member of the Police and Crime Commissioner's staff. Each member has a responsibility to ensure the following:

- that FOIA requests are addressed in a timely and accurate manner;

- that records are maintained in such a manner to ensure easy, appropriate and timely retrieval of information.

- 3.1.2 The right of individuals to request information will be balanced against the need of the Office of the Police and Crime Commissioner to support the Police to protect the public and effectively and safely carry out operations and the core functions of law enforcement. Therefore information that could compromise the Constabulary's effectiveness will not be released.
- 3.1.3 The identity of the requester will be protected unless there is an operational need or it is unavoidable due to the nature of the request.
- 3.1.4 Information requested and disclosed relating to the Police and Crime Commissioner, and members of the Office of the Police and Crime Commissioner will be in accordance with transparency legislation, limited to their role in the organisation and within the constraints of the exemption to be applied under Section 40 of the FOIA.
- 3.1.5 The supply of information through normal business processes will be unaffected by the requirements of the Act.
- 3.1.6 No member of staff will initiate a request for information under the FOIA in the name of the Office of the Police and Crime Commissioner to another public authority without the written permission of the Chief Executive.

## **3.2 Financial implications**

- 3.2.2 The Freedom of Information Act 2000 allows for specific fees to be charged where the cost of compliance communication within the Act exceeds the appropriate limit. The Office of the Police and Crime Commissioner reserves the right to levy such fees.
- 3.3 Effective record management will support the provision of information under the Act. The Office of the Police and Crime Commissioner will seek to comply with the Code of Practice issued by the Lord Chancellors Dept, and will manage its records in line with its Records and Information Management Policy.
- 3.5. In the application of this policy the Office of the Police and Crime Commissioner will not discriminate against any persons regardless of sex, race, colour, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention Human Rights (ECHR) and the Equality Act 2010.

## **4.0 PROCEDURES AND GUIDANCE (FOIA - OPEN)**

### **4.1 Procedures**

- 4.1.1 In processing FOI requests, in addition to local procedures, the Office of the Police and Crime Commissioner will have regard to the Association of Chief Police Officers FOI Manual of Guidance (available on the [Police Force website](#) and [Sharepoint](#)), and where appropriate, will seek advice from the ACRO Central Referral Unit.

## **4.2 The Office of the Police and Crime Commissioner's Publication Scheme**

4.2.1 The Office of the Police and Crime Commissioner's Publication Scheme is available on the [website](#) or on request.

4.2.2 The Publication Scheme specifies:

- What information the Office of the Police and Crime Commissioner will make routinely available to the public as a matter of course
- How it does so
- Whether or not this information will be made available free of charge or require the payment of a fee

4.2.3 The Office Manager is responsible for the maintenance and updating of the Publication Scheme.

## **4.3 Requests for information**

4.3.1 Information not already available through the Publication Scheme will be accessible through an FOI request, subject to the provisions of the Act.

4.3.2 The FOIA establishes three related rights:

- The right to be told whether the information exists
- The right to receive the information (subject to the provisions of the Act)
- The right of internal and external appeal on any aspect of the way the request has been dealt with.

4.3.3 A request for information may be received anywhere in the organisation. It must be made in a permanent form (e.g. in writing, or fax or email). It does not have to mention the Act by name.

4.3.4 The request should be forwarded to the Office Manager as soon as it is received so that the 20-day limit for responding to requests can be met.

## **4.4 Third party information**

4.4.1 In accordance with the section 45 Code of Practice and the ACPO FOI manual of guidance the Office of the Police and Crime Commissioner will consult with third parties wherever possible when their information or interests may be involved in disclosure of information.

## **4.5 Decision-making and the public interest test**

4.5.1 The decision on whether information is or is not disclosed will be made in accordance with the Act and with reference to the ACPO manual of guidance. Where necessary, specialist advice will be sought.

4.5.2 A harm test and a public interest test must be applied if a qualified exemption is being considered.

## **4.6 Use of section 36 (conduct of public affairs) exemption**

4.6.1 This exemption should only be used in exceptional cases.

4.6.2 The Chief Executive will approve the application of this section.

#### **4.7 Appeals**

4.7.1. Any person who is not satisfied with the way a request has been dealt with may appeal. The Office of the Police and Crime Commissioner's appeals process is independent of any person who has been involved in the FOI process to that point. A copy of the process is available on our [website](#).

4.7.2 If the requester is still unsatisfied they may then appeal to the Information Commissioner's office.

#### **5.0 AUDIT DECLARATION (FOIA - OPEN)**

5.1 This policy has been drafted and audited to comply with the principles of the Freedom of Information Act 2000, and the Human Rights Act. Equality and diversity issues have also been considered to ensure compliance with equality legislation and policies. Under the Freedom of Information Act 2000 the document is classified as 'OPEN'.

#### **6.0 MONITORING (FOIA - OPEN)**

6.1 The Office of the Police and Crime Commissioner's performance against the requirements of the FOIA will be monitored by Chief Executive.

#### **7.0 REVIEW AND OWNERSHIP (FOIA - OPEN)**

7.1 The contents of this policy will be reviewed annually by the Office Manager.

#### **8.0 LINKS**

8.1 This policy links to and has been formulated within the context of the following policies:

- [Records and Information Management policy](#)
- [Data Protection Policy](#)