

**Cumbria Office of the
Police & Crime Commissioner**

Freedom of Information **Requests**

**Procedure in dealing with
Requests for Information
under the Freedom of
Information Act 2000 and
Internal Review
Procedure.**

Procedure Summary

The aim of this procedure is to ensure that information requested from the Office of the Police and Crime Commissioner (OPCC) Cumbria, meets the statutory legislation of the Freedom of Information Act 2000 and the procedural guidance issued by the information Commissioner's office.

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Freedom of Information Act 2000

Procedure in dealing with Requests for Information and Internal Review Procedure

1. Introduction

- 1.1 In addition to accessing standard information via the website of the Office of the Police and Crime Commissioner (OPCC) Cumbria, a person may make a request for specific information and the OPCC must deal with that request in accordance with the provisions contained within the Freedom of Information Act. The act gives a general right of access to 'recorded' material held by public authorities.
- 1.2 Applicants wishing to access Information about themselves should use their rights under the Data Protection Act. Personal data about other people cannot be released as if to do so would breach the Data Protection Act.

2. Requesting Information

- 2.1 Requests for information to the OPCC must be made in writing, and this can include e-mails and messages via Social Media. The request should state the applicants name, return address, and describe the information sought.
- 2.2 A request for information must clearly describe the information requested. If the description of the information is not sufficiently precise or clear about what is needed, then the OPCC will contact the applicant to ask for further information to identify the information requested. Under the Freedom of Information Act there is an obligation to provide the applicant with advice and assistance so far as it is reasonable to do so. The OPCC is not obliged to comply with the request until the further precision is received. (See also paragraph 4.4).
- 2.3 To be a valid request under the Freedom of Information Act requests do not have to be written on a special form, they do not need to mention the Act and need not to refer to 'Freedom of Information' in any way. All requests will be logged in the Freedom of Information Disclosure Log (Appendix C) in order to maintain a detailed records management system and to assist with monitoring purposes.

3. Acknowledge a Request and Providing Assistance

- 3.1 The OPCC will respond as soon as possible and not later than 20 working days after receiving the request. The reply should confirm or deny whether or not the information is

held and must either provide the information requested or explain why it has not been provided.

- 3.2** All responses are released on a specific template and published on the website of the Office of the Police and Crime Commissioner. Details of the applicant are not made public.

4. Decision Making Process

Pre – Decision Making

- 4.1** When requests are received that are complicated or unclear the OPCC will contact the applicant to establish exactly the information required. The primary function of this interaction is to establish exactly what the applicant wants and to encourage mutual exploration of other options which makes it easier for them to identify and obtain the information requested.
- 4.2** Although it is for the benefit of the applicant to provide further information to assist the OPCC in dealing with their request, there is no legal obligation for the applicant to provide any further information.
- 4.3** If clarification has been requested or the OPCC is awaiting further information from the applicant, the time limit or ‘clock’ for responding can be ‘stopped’. The ‘clock’ will re-start immediately upon receipt of the requested clarification or details.
- 4.4** Once the above points have been successfully resolved, deciding on a suitable response can begin.

Disclosure

- 4.5** Confirming that the office holds information is a statutory requirement. (Section 1(1) (a)) of the Act, and if information is held to communicate that information (Section 1(1) (b)).
- 4.6** Although the office will endeavour to be as transparent as possible within legislation there are exemptions that we must comply with (See Appendix A). The applicant will be informed as to why the information cannot be provided and should identify the exemption applied.
- 4.7** Details of how to apply for an internal review of the decision will also be provided to the applicant. (Appendix B).
- 4.8** All responses will be made on a specific template to ensure consistency.

5. Cost

- 5.1** If the applicant requests information contained within the OPCC Publication Scheme they will inform the applicant that the information is available on the website. For those without access to the Internet the OPCC will provide a single printout of an individual publication as shown on the website free of charge.
- 5.2** Requests for copies of publications, multiple printouts from the website or copies of the archived material no longer available will attract a charge. This is currently 15p per sheet. The applicant will be informed of the cost prior to application being processed. The information will not be supplied until after receipt of the payment. The timescale is put on hold whilst waiting for the fee to be paid. If the applicant refused to pay the fee then the information can be withheld. If the fee is not paid within 3 months it will be assumed that the applicant no longer wants the information.
- 5.3** If the applicant requests information not contained within the OPCC Publication Scheme, the OPCC (under national guidelines) is allowed to charge 10% of the cost of gathering and producing the information up to a maximum of £55. The applicant must be informed of the cost prior to the application being processed. The information should not be supplied until after receipt of the payment. The timescale is put on hold whilst waiting for the fee to be paid. If the applicant refused to pay the fee then the information can be withheld. If the fee is not paid within 3 months it will be assumed that the applicant no longer wants the information.
- 5.4** Applicants can ask for information to be supplied in different formats, inspect records, or be provided with a summary of the information. In such instances, the OPCC must take into account the cost of supplying the information in this format before complying with the request.
- 5.5** Section 12 of the legalisation provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit. The Fees Regulations state that this cost limit is £450 in the case of the Police service this equates to 18 hours of work.
- 5.6** The OPCC will take into account the following four items in considering whether the appropriate limit would be exceeded:
- Determining if the information is held
 - Locating the information
 - Retrieving the information, and
 - Extracting the information to be disclosed from the other information
(The time spent identifying information to be exempted and the time dedicated to the process of redaction cannot be included in the fees estimate).

6. Vexatious Requests

- 6.1** The OPCC can reserve the right to refuse any vexatious or repeated requests.

6.2 The following requests can be considered as vexatious;

- Abusive or aggressive language
- Burden on the Authority
- Personal Grudges
- Unreasonable Persistence
- Unfounded Accusations
- Intransigence
- Frequent or Overlapping Requests
- Deliberate intention to cause annoyance
- Scattergun approach
- Disproportionate effort
- No obvious intent to obtain information
- Futile and Frivolous requests

6.3 Section 14 (1) (1) of the Act is designed to allow a Public Authority to refuse vexatious requests.

7. Transfer of Requests

7.1 Any requests for information which the OPCC does not hold but which may be held by another Public Authority will be referred back to the applicant indicating that the information may be held by someone else and suggesting that the applicant re-apply to the other Public Authority. Contact details for the other Authority should be provided to the applicant.

8. Internal Review

8.1 If applicants are dissatisfied with the response to their request they are entitled to apply for an internal review of the decision. (Appendix B).

8.2 Internal Reviews must be completed promptly and a response sent out to the applicant within 20 working days of the further request.

8.3 If, after an internal review, the OPCC still refused the request the applicant may complain to the Information Commissioner who will decide whether the request has been handled correctly.

9. Enforcement

9.1 If an applicant complains to the Information Commissioner both the applicant and the OPCC are informed of the Information Commissioner's decision in a Decision Notice. Where

appropriate the Decision Notice will instruct the OPCC what steps, if any, it needs to take to comply with the Act, and this may include the release of information. Both the applicant and the OPCC may appeal against a Decision Notice to the Information tribunal.

- 9.2** The Information Commissioner can also issue the OPCC with an Enforcement Notice stating what steps it should take to comply with the Act. The OPCC may appeal to the Information tribunal against such a notice.

10. Time Scale Summary

- 10.1** The following timescales apply:

Response to initial request	20 working days
Internal Review	20 working days
Reasonable Interval between a repeated request	60 Working Days
Clarification of information from an applicant	If not received, request can be closed after 20 working days from when the request for further information made

Absolute and Qualified Exemptions

Appendix A

The Freedom of Information Act creates a number of exemptions which have the effect of permitting Authorities to withhold some or all of the information requested by members of the public where that information fits the terms of one or more of the exemptions.

Exemptions are either absolute or qualified. If an absolute exemption applies there is no obligation under the Act to consider the request for information further. Qualified exemptions are subject to the public interest test. In both cases it is vital to ensure that an informative response is provided to the applicant explaining clearly why the information they have requested cannot be provided.

Qualified Exemptions (exemptions where the public interest test applies):

Section	Exemption	Type	Type
22	Information intended for future publication	Qualified	Class-based
24	National security	Qualified	Prejudice-based
26	Defence	Qualified	Prejudice-based
27 (1)	International relations	Qualified	Prejudice –based
27 (2)	International relations	Qualified	Class-based
28	Relations within the UK	Qualified	Prejudice-based
29	The economy	Qualified	Prejudice-based
30	Investigations and proceedings conducted by the public authority	Qualified	Class-based
31	Law enforcements	Qualified	Prejudice-based
33	Audit functions	Qualified	Prejudice-based
35	Formulation of government policy	Qualified	Class-based
36	Prejudice to effective conduct of public affairs	Qualified	Prejudice-based
37	Communications with her majesty, etc. and Honours	Qualified	Class-based
38	Health and Safety	Qualified	Prejudice-based
39	Environment information	Qualified	Class-based
40	Personal information (people cannot access personal data about themselves under the Freedom of Information Act as there is access to such information under the data Protection Act 1998. Personal data about other people cannot be released if to do so would breach the Data Protection Act).	Absolute (in part)	Class-based
42	Legal Professional Privilege	Qualified	Class-based
43 (1)	Commercial Interests	Qualified	Class-based
43 (2)	Commercial Interests	Qualified	Prejudice-based

Consideration of the public interest may take longer than the 20 days allowed for responding to requests. In these cases the OPCC must give the applicant an estimate of when it will have reached a decision on where the public interest lies within 20 days of receiving the request.

Absolute Exemptions (exemptions where the public interest test does not apply):

Section	Exemption	Type	Type
21	Information accessible to applicant by other means	Absolute	Class-based
23	Information supplied by, or relating to, bodies dealing with security matters	Absolute	Class-based
32	Court Records	Absolute	Class-based
34	Parliamentary privilege	Absolute	Class-based
40	Personal Information	Absolute (in part)	Class-based
41	Information provided in confidence	Absolute	Class-based
44	Prohibitions on disclosure	Absolute	Class-based

Freedom of Information – Review Procedure

Appendix B

If you are unhappy with a response to a request for information from the Office of the Police and Crime Commissioner made under the Freedom of Information Act 2000 then you can make an appeal in writing to:

Cumbria Office of the Police and Crime Commissioner
Police Headquarters
Carleton Hall
Penrith
Cumbria
CA10 2AU
Or via email to: commissioner@cumbria.police.uk

An internal review will be conducted and we will aim to respond within 20 working days. However, if we are unable to complete the review by this date, we will advise you accordingly.

Where a request for information was dealt with by normal methods of business delivery (e.g. recruitment) and a complaint is received, this will not be dealt with under the FOI complaints process. Only where the request has been processed as an official FOI request will this complaint process be utilised.

If you decide to ask for such a review to be undertaken and, following this process, you are still dissatisfied, then you have the right to direct your complaint to the Information Commissioner who will consider it.

Contact details for the Information Commissioner:

Information Commissioner's Office
Wycliffe house
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545700
Fax: 01625524510
E-mail: mail@ico.gsi.gov.uk

This procedure has been adopted by the OPCC Cumbria and will be reviewed on a three year cyclical basis.

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Next Review Date: October 2017, December 2020