

# Policy



<b>Alliance Freedom of Information Act Policy</b>			
<b>J-P-003 (formerly SA020)</b>			
<b>Version</b>	1.0	<b>Host Force</b>	Devon and Cornwall Police
<b>Effective Date</b>	30/11/2021	<b>Host Policy Unit</b>	Devon and Cornwall Police Policy Unit
<b>Version Date</b>	30/11/2023	<b>Policy Owner</b>	Head of Alliance Information Management
<b>Review Date</b>	30/11/2023	<b>Policy Author</b>	Alliance Information Compliance Manager
<b>Associated Procedures</b>	N/A		
<b>Policy Summary</b>			
<p>Both Devon and Cornwall Police and Dorset Police are fully committed to complying with the Freedom of Information Act 2000 (FOIA) and its principles of openness and accountability as public authorities. The intention of this Policy is to provide a framework for all individuals across both forces ensuring compliance with the provisions of the FOIA, in particular that:</p> <ul style="list-style-type: none"><li>• A growing proportion of information about each Force is promoted to the public through the Publication Scheme;</li><li>• Information not available through the Publication Scheme is readily available on request, unless an exemption applies;</li><li>• All requests for information are dealt with in a timely manner;</li><li>• Exemptions and associated-harm public-interest tests are applied appropriately;</li><li>• A fair and efficient internal appeal system is administered.</li></ul> <p>Devon and Cornwall Police and Dorset Police are considered as two separate public authorities where the FOIA is concerned and, as such, any requests for disclosure of information under the FOIA will be dealt with in relation to the</p>			

specified Force only, even though the Alliance Freedom of Information Team (FOI Team) is one single alliance team servicing both forces.

We welcome any comments or suggestions you wish to share about the content or implementation of this Policy. If you would like to make contact to discuss further, please email: [Policies@dorset.pnn.police.uk](mailto:Policies@dorset.pnn.police.uk) or [ForcePolicyandProcedures@devonandcornwall.pnn.police.uk](mailto:ForcePolicyandProcedures@devonandcornwall.pnn.police.uk)

## **1. Purpose, Standards and Legal Basis**

- 1.1 The FOIA provides a general right of access to information held by public authorities, including Devon and Cornwall Police and Dorset Police, within 20 working days and is subject to certain exemptions. The Act also places a duty on public authorities to adopt and maintain a Publication Scheme.
- 1.2 Each Force is obliged to abide by all relevant UK and European Union legislation. Each Force shall comply with the following legislation and other standards as appropriate:
- The Data Protection Act (2018) and UK General Data Protection Regulation (GDPR).
  - The Health and Safety at Work Act (1974).
  - Human Rights Act (1998).
  - Freedom of Information Act (2000).
  - Authorised Professional Practice.
  - National Decision Model.
  - Their visions, missions and values.
  - Equality and diversity related matters included within, but not limited to the Code of Ethics and Standards of Professional Behaviour.

## **2. Roles and Responsibilities**

- 2.1 The application of the FOIA is the responsibility of every member of the Force to which the application is made. Everyone working for either force 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 and in accordance with the Joint Records Management Policy (J-P-011), including the records retention and deletion guidance;
  - that employees/staff other than the FOI Team should not be replying direct to any requests and must instead send them to the FOI Team to manage (sections 3.15 and 3.16 refer); and
  - that you may be breaching the FOIA if you do any of the following:
    - 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.

### **3. Policy Information**

- 3.1 The right of individuals to request information will be balanced against the need of the Force and Police Service in general to protect the public and effectively and safely carry out operations and the core functions of law enforcement. Therefore, information that could compromise the Force's effectiveness will not be released.
- 3.2 The identity of the requester will be protected from internal circulation unless there is an operational need, or it is unavoidable due to the nature of the request. The identity of the requester will not be publically disclosed.
- 3.3 Information requested and disclosed on members of the Force will be limited to their role in the organisation and within the constraints of the exemption to be applied under Section 40 of the FOIA unless that member approves the disclosure of their details.
- 3.4 The supply of information through normal business processes will be unaffected by the requirements of the FOIA.

#### **Financial implications**

- 3.5 The FOI Team exists within the Alliance Information Management Department to manage all FOIA requests received by either Force. Additionally the FOI Team will utilise staff responsible for specific areas of information to provide the requested information. Managers must allow their staff time to retrieve the information when asked and in a timely manner in order to meet legislative timescales. In addition, any member of staff involved in the consultation process (the review of information prior to an FOIA disclosure) must also review the information presented to them in a timely manner.
- 3.6 The Freedom of Information Act 2000 allows for specific fees to be charged where the cost of compliance with the FOIA exceeds the appropriate limit. Devon and Cornwall Police and Dorset Police reserve the right to levy such fees.
- 3.7 Effective records management will support the provision of information under the FOIA. Each Force will seek to comply with the Code of Practice issued by the Lord Chancellor's Department and will manage records in line with the Joint Record Management Policy (J-P-011). All FOIA requests will be retained for a period of two years.

### **Procedures**

- 3.8 All FOIA procedures will follow the [NPCC Authorised Professional Practice](#). More information can be found on the Freedom of Information Sharepoint Page.

### **The Force's Publication Scheme**

- 3.9 The Freedom of Information Act requires every public authority to have a Publication Scheme. The scheme must set out the different types of information available and represents the routine material we will disclose such as policies and procedures, minutes of meetings and financial information.
- 3.10 Both Force's Publication Schemes are based on the Information Commissioner's Officer (ICO) model and are available on the respective Force websites or in hard copy on request from the FOI Team.
- 3.11 The Publication Scheme specifies:
- What information the Force 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.
- 3.12 The FOI Team is responsible for the maintenance and updating of the Publication Scheme.

### **Requests for information**

- 3.13 Information not already available through the Force Publication Scheme will be accessible through an FOI request, subject to the provisions of the FOIA.
- 3.14 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 FOIA).
  - The right of internal and external appeal on any aspect of the way the request has been dealt with.
- 3.15 A request for information may be received anywhere in either Force. It must be made in a permanent form (e.g. in writing, or fax or email). It does not have to mention the FOIA but simply request information that does not fall within a normal '*business as usual*' process of disclosure.
- 3.16 The request should be forwarded direct to the FOI Team at Devon and Cornwall Headquarters (lead Force), or through Local Policing Area (LPA) / Basic Command Unit (BCU) / Departmental FOI Liaison Officers to the FOI Team as soon as it is received so that the legislative 20 working days limit

for responding to requests can be met. For an up-to-date list of FOI Liaison Officers please contact the FOI Team using this link.

### **Datasets**

- 3.17 [Section 102](#) of the Protection of Freedoms Act 2012 (11A and 11B of the FOIA) states that if an applicant requests information that is or forms part of an existing dataset and expresses a preference to receive it in an electronic form, the relevant public authority is required to release the dataset in a way that enables it to be used and reused subject to the normal provisions within the FOIA, such as exemptions.
- 3.18 Force's must provide the dataset in a re-useable format, where reasonably practicable; and grant a license (in accordance with one of the specified licenses within the Code of Practice (datasets) issued by the Ministry of Justice) under which its datasets may be re-used.
- 3.19 This provision does not require the creation of a dataset nor the updating of a subsequently disclosed dataset if this would not otherwise take place as part of normal Force processes. The Force is only required to consider the disclosure of existing updated datasets. If a dataset is held that is incomplete or in draft form it is subject to this provision in the same way as a complete dataset.
- 3.20 The Force's should consider the publishing of existing and newly created datasets as part of their publication schemes, subject to the same tests that would be applied when considering a request for the release of a dataset.

### **Third party information**

- 3.21 In accordance with the section 45 Code of Practice and the NPCC FOI manual of guidance each Force will consult with third parties wherever possible when their information or interests may be involved in disclosure of information.

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

- 3.22 The decision on whether information is or is not disclosed is set out as per [FOI disclosure process](#) available on SharePoint.
- 3.23 A harm test and a public interest test must be applied if a qualified exemption is being considered.

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

- 3.24 This exemption should only be used in exceptional cases. Evidence to support the use of this exemption will be provided to the FOI Team whenever the exemption is used.

3.25 The Chief Constable of the Force to which the original application was made will approve the application of this section.

**Appeals**

3.26 Any person who is not satisfied with the way a request has been dealt with may appeal. [The Appeals Process](#) is independent of the FOI Team or any other person who has been involved in the FOI process to that point. A copy of the process is available via Sharepoint.

3.27 If the requester is still unsatisfied they may then appeal to the Information Commissioner’s Office.

**4. Monitoring and Review**

4.1 Review and amendments will be coordinated by the Policy Unit.

4.2 The Policy owner has overall responsibility for ensuring the content of the Policy is appropriate and up to date.

4.3 This Policy will be reviewed every two years subject to legislation/process changes.

**5. Associated Documents**

- Alliance Information Management policies and procedures
- Joint Data Strategy
- Alliance Data Protection Policy and Procedure SA045
- Joint Records Management Policy J-P-011
- DCP Information Sharing Policy DCP-P-006
- DP Information Sharing Policy P14:2006
- Vision, Mission & Values (DCP)
- Values (DP)
- Human Rights Legislation
- Records Management (DCP)
- Records Management (DP)
- Government Security Classification
- Data Protection Legislation
- National Decision Model
- Code of Ethics (DCP)
- Code of Ethics (DP)
- Authorised Professional Practice (APP)

<b>6. Document History</b>	
<b>Present portfolio holder</b>	Director of Legal, Reputation and Risk
<b>Present document owner</b>	Head of Alliance Information Management
<b>Present owning department</b>	Alliance Information Management Department
<b>Below details required for version 1.0 and major amendments only</b>	
<b>Name of board</b>	N/A
<b>Date Approved</b>	25/11/2021
<b>Chief officer approving</b>	Head of Alliance Information Management

<b>7. Version History</b>			
<b>Version</b>	<b>Date</b>	<b>Reason for Amendments</b>	<b>Amended by</b>
1.0	30/11/2021	Review and transferred into new template	Alliance Information Compliance Manager (57747)