**SWYDDOGOL OFFICIAL**



FREEDOM OF INFORMATION POLICY

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| **Policy summary:** | The Freedom of Information policy enables Dyfed Powys OPCC to establish good practices around the disclosure and proactive publication of information under the Freedom Of Information Act 2000. It promotes openness and transparency throughout the OPCC. |
| **Version control:** | V1 – New policy |
| **Date implemented:** | May 2021 |
| **Review date:** | At least every two years |
| **Owner/contact:** | OPCC Compliance and Performance Support Officer |
| **Approval** | Approved by:    Date of approval: |

1. **Statement of Policy**

This Policy will ensure that the Office of the Police and Crime Commissioner (OPCC) meets and implements the legal requirements under the Freedom of Information Act (The Act). The Act sets out the legislative requirements that the OPCC is required to comply with. In order to assist in ensuring compliance the OPCC will follow the College of Policing Authorised Professional Practice (APP) on Information Management – Freedom of Information. Additionally the OPCC will follow guidance provided by the Information Commissioner’s Office (ICO) which will include the requirements set out within the ICO model Publication Scheme.

The OPCC will adhere to the APP as the basis for its procedure in responding to requests and publishing data under the Act and Regulations. In addition the OPCC will take due cognisance to guidance issued by the ICO and the ICO FOI Flowchart and the OPCC FOI Process Guidance Document.

1. **Policy Scope**

Key drivers for this policy and the need for a consistent approach are legislative, particularly the principles of the Freedom of Information Act 2000 and the requirements of the Code of Practice under Section 46 and Section 45 of the Freedom of Information Act.

The Act is regulated by the ICO and the ICO has various powers to encourage public authorities to comply with the Act, including prosecution of those who commit offences.

A failure to process requests for information and failure to proactively publish information in line with the legislation may constitute a breach of the legislation and, ultimately, undermine public confidence in the OPCC.

The Act covers all information held by the OPCC in any format including paper documents, electronic documents, CCTV videos, tape recordings etc. This includes written records, typed, handwritten or scribbled notes, emails, flip-charts and videos, audio tapes, logs, answer phone messages, tapes of telephone conversations, electronic data and archived records etc.

The principles of this policy covers all information held by the OPCC internally or externally held by contractors or third parties on behalf of the OPCC regardless of the format in which it is held. Information received from third parties, other agencies, etc. is also covered by the Act.

Request for information under the terms of the FOI Act must be in writing and can be made by anyone – they do not have to be UK citizens, or resident in the UK although requests for information under the Regulations can be made verbally. Freedom of information requests can also be made by organisations, for example a newspaper, a campaign group, or a company. Employees of a public authority can make requests to their own employer, although good internal communications and staff relations will normally avoid the need for this.

1. **Powers and Policy / Legal Requirements**

The OPCC has a legal obligation to comply with the Act. The Act provides significant rights of access to all information held by the OPCC, regardless of where it has originated from, where exemptions do not apply.

The OPCC will comply with the requirements set out within the Freedom of Information Act 2000. The OPCC will refer to the College of Policing, APP - Information Management – Freedom of Information when processing requests for information and proactively publishing information under the OPCC Publication Scheme.

**Relevant legislation:**

• Freedom of Information Act 2000

• The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

• The Lord Chancellor’s Code of Practice under Section 45 of the FOI Act

• The Lord Chancellor’s Code of Practice on the management of records issued under section 46 of the Freedom of Information Act 2000

• Data Protection 2018

• UK General Data Protection Regulation (UK GDPR)

**Other Policy, Code of Practice and Guidance Documents**

• Retention - Disposal Policy

• Data Protection Policy

• College of Policing APP – Information Management – Freedom of Information

• ICO Guide to Freedom of Information

• ICO FOI Flowchart

• OPCC FOI Guidance Document

1. **Options and Contingencies**

Roles and Responsibilities within OPCC

**Compliance and Performance Manager:**

Responsibility for this policy lies with the Compliance and Performance Manager. The Compliance and Performance Manager also has responsibility for the management of the OPCC FOI Unit and the responsibility to effectively direct, control, monitor and provide management oversight of the activities carried out by the OPCC FOI Disclosure Unit in relation to requests for information and the proactive publication of information under the legislation, in order to ensure compliance. The Compliance and Performance Manager has overall responsibility for sign off on all requests prior to release.

**Data Protection Officer (DPO):**

The UK GDPR introduces a duty for a public authority or body to appoint a data protection officer (DPO). The Compliance and Performance Manager undertakes this role within the OPCC and as such is responsible for informing and advising about the OPCC’s obligations to comply with the UK GDPR and other data protection laws, monitoring compliance, training and being the first point of contact for the ICO. The DPO responds to any queries in relation to requests for advice received under the Act and the Regulations, providing advice, assistance and guidance.

**Compliance and Performance Support Officer:**

The Compliance and Performance Support Officer is responsible for the processing of all requests for information under the legislation, ensuring that suitable responses are provided to all requests received under the legislation. The Compliance and Performance Support Officer also oversees the publication of information via the OPCC Publication Scheme.

**All OPCC Employees:**

All OPCC staff should be aware of the Act and their legal obligations under the Act. They should ensure that if they are asked for information by the OPCC FOI Disclosure Unit staff, to furnish a request for information under the legislation, that the information is provided promptly and in line with the deadlines set by Disclosure staff. Where it is anticipated that it will exceed 18 hours to locate and retrieve the information requested a time estimate should be provided. All OPCC staff will familiarise themselves with the processes they are required to follow should they receive a request for information either under the Act or Regulations, bearing in mind that requests under the Regulations can be made verbally. They will ensure prompt action due to the timescales set within the legislation to process requests for information.

**Section 16** of the Act states that it is the duty of the OPCC to provide advice and assistance to any person who has made, or intends to make, a FOI request. All staff will ensure compliance with this requirement.

All staff should be aware that **Section 77** of the Act makes it a criminal offence to alter, deface, block, erase, destroy or conceal any record with the intention of preventing disclosure.

Where information is also required as part of the Publication Scheme, the department responsible will provide information to the agreed standards and timescales.

The intention of the Act is to encourage a spirit of openness and transparency within Public Authorities. The OPCC fully supports this aim and will wherever possible build trust through the proactive publication of information.

OPCC staff who deal with third party organisations (e.g. contractors) should ensure that the third party organisations are aware of the Act and its implications with respect to any information held by the OPCC. For example contractors should be informed that any tender documents they supply to the OPCC may be released into the public domain if a request is received under the Act or the Regulations.

**Legal Services:**

The Act and Regulations provide the right for a requestor to ask the OPCC to re-evaluate any response that they have been provided with – known as an Internal Review. The OPCC internal review process will be undertaken by the Chief of Staff and Monitoring Officer.

The OPCC will cooperate fully with the ICO should a request be submitted to the ICO for review.

**Requests –** Requests for information under the legislation can be submitted via the OPCC website.

<https://www.dyfedpowys-pcc.org.uk/en/contact-us/access-to-information-we-hold/>

**Code of Ethics**

In line with the nine Policing Principles of the Code of Ethics, this Policy seeks to address the following:

* + **Accountability** - You are answerable for your decisions, actions and omissions.
  + **Fairness** - You treat people fairly.
  + **Honesty** - You are truthful and trustworthy.
  + **Integrity** - You always do the right thing.
  + **Leadership** - You lead by good example.
  + **Objectivity** - You make choices on evidence and your best professional judgement.
  + **Openness** - You are open and transparent in your actions and decisions.
  + **Respect** - You treat everyone with respect.
  + **Selflessness** - You act in the public interest

1. **Take Action and Review**

This policy is owned by the Compliance and Performance Support Officer. The review process will be conducted by the Compliance and Performance Support Officer at least every two years to ensure the continued effectiveness of the policy, and taking into account any changes to legislation, national guidance, ICO guidance etc.

The effectiveness of the policy will be monitored on a regular basis over and above the two year review period and any major concerns will be escalated as appropriate.

Appropriate promotion of this policy will take place which can include awareness raising when training inputs and presentations are provided to staff in the OPCC. The policy will be made available on the OPCC website. Publication via the website will ensure that it is available for public view.

The Internal Review process or the ICO investigation process may highlight issues with this policy and associated guidance. If this is the case relevant action will be taken.

Where there are issues identified the Compliance and Performance Manager will work closely with representatives from the relevant departments to address the issues and ensure that lessons are learned.

Any issues of concern or risk in respect to compliance with Freedom of Information legislation across the OPCC will be escalated to the Compliance and Performance Manager and the OPCC SIRO, dependent on severity.