



Freedom of Information Procedure

This procedure is part of North Yorkshire Police policy to which all Chief Constable personnel are required to adhere.

Procedure Statement

The Freedom of Information Act (FOIA) 2000 is a piece of legislation designed to “open up” the public sector to make organisations more accountable for decisions and actions that are taken.

North Yorkshire Police (NYP) recognises its obligation to adhere to the FOIA 2000. FOIA imposes two distinct responsibilities upon public authorities:

- the duty to confirm or deny whether the information exists and
- the duty to communicate the information

The principal ways whereby release of information are achieved are:

- creating and maintaining a publication scheme - the purpose of this is to make a significant proportion of disclosable information routinely accessible without waiting for it to be requested
- providing a general right of access to all types of ‘recorded’ information held by public authorities

Under the terms of the FOIA 2000, public authorities are required to make available requested information (subject to a range of exemptions) to any individual or organisation anywhere in the world.

The purpose of this procedure is to outline the force’s legal requirements for the release of information under the FOIA 2000 and give brief guidance to staff who receive and deal with requests for information.

More detailed information can be found in the Freedom of Information College of Policing APP <http://www.acpo.police.uk/documents/information/2009/200902INFFOI06.pdf> which all forces are advised to follow.

Overarching Policies

Records Management Policy

Data Protection Policy

Procedures

Collection and Recording of Police Information Procedure

Review, Retention and Disposal of Information Procedure

Protective Marking Procedure

Other Documents

Freedom of Information College of Policing APP

Environmental Information Regulations (EIR)

Management of Police Information (MOPI) Guidance and Code of Practice College of Policing
Information Commissioner's Office website

Freedom of Information Procedure



Information Commissioner's Office Definition document for police forces

Process

All staff must comply with this procedure and the ACPO Manual of Guidance when dealing with all information held by NYP, no matter how recorded. Considerations must be given to this procedure during the course of normal working practices. Employees must ensure they possess a basic understanding of the Act and are aware of the role they play in helping the Force to comply with its requirements.

Publication Scheme

Section 19 of the FOIA 2000 places a duty on public authorities to adopt, implement, operate and maintain a publication scheme. The publication scheme is an integral part of compliance with the FOIA 2000 and serves as the ongoing indicator that public authorities are committed to openness and transparency.

The Information Commissioner's Office has produced a model publication scheme that can be adopted without modification by any public authority without further approval.

Click here to access the
[model-publication-scheme.pdf](#)

Monitoring and Reviewing the Publication Scheme

NYP Publication Scheme

The Department owning the information is responsible for updating the information on the publication scheme, with the Civil Disclosure Unit conducting a review in conjunction with the Corporate Communications Department at least annually, to ensure the publication scheme is being maintained.

This review will be carried out in conjunction with departments to ensure that best use is being made of the publication scheme and to assess whether new information is being produced that should be made public. Any department needing advice and assistance before adding or updating any information must contact the Civil Disclosure Unit.

Publication Scheme

The Chief of Staff is responsible for ensuring ongoing compliance with the publication scheme and the requirements of the Specified Information Order. The Civil Disclosure team will conduct 6 monthly compliance reviews in relation to the publication scheme and links on the North Yorkshire Police website.

Defining a Freedom of Information Request

Under the FOIA 2000 any information, documentation or records that are produced internally or held by a public authority or held by contractors or third parties on behalf of the public authority, are covered by the FOIA 2000.

All information held by staff associations, such as the Police Federation, UNISON, National Black Police Association, Gay and Lesbian Association, Superintendents Association (PSAEW) etc., will not be covered by the FOIA 2000 even though the information may be held on police servers or premises, provided the information is only for the sole use of those associations or unions.

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However, if the information is used or accessed by NYP to execute its functions as an organisation, then it would be deemed as being held by the Police Service and would, therefore, need to be considered for disclosure under the FOIA 2000.

To be a valid FOI request it:

- ✓ Must be made in writing
- ✓ Must clearly describe the information being sought
- ✓ Can be made from anywhere in the world
- ✓ Can be made by an individual or an organisation
- ✓ Can be made by letter, fax or email
- ✓ Must be legible
- ✓ Contain a name and address for a response to be sent.

Requests **do not**:

- ✗ Have to be on a special form
- ✗ Need to mention the FOIA 2000
- ✗ Need to refer to 'Freedom of Information' in any way.

The FOIA 2000:

- covers records capable of recovery in any form
- covers information in any format, no matter how it is recorded
- is fully retrospective - as long as the force holds the information, it can be requested

All information, no matter how recorded, is subject to the FOIA 2000. This includes written records, typed, handwritten, scribbled notes, e-mails, flipcharts, videos, audio tapes, computer tapes, logs, answer phone messages, tapes of telephone conversations, archived records, text messages.

The Act applies to 'information recorded in any form'. Therefore, official information recorded in private email accounts, mobile devices, including text messages on mobile phones, or in any other media, may also be considered to be held on behalf of the public authority.

The Civil Disclosure Unit will act in accordance with the most up to date guidance from the Information Commissioner when considering and acting upon this scenario. This is likely to mean that where the Civil Disclosure Unit has decided that a relevant individual's email account or text messages may include official information, the individual will be asked to search their account.

Where officers or staff are asked to check private email accounts or text messages in this way, a record will be made on the file relating to the processing of the FOI request.



Business as Usual (BAU)

Technically an FOIA 2000 request is any written request which states the name and address of the applicant and describes the information requested. However, all police forces in the UK will operate a 'business as usual' philosophy. Therefore, if the request for information is something that you normally deal with in your area, these should carry on as normal.

To be treated as BAU, a request for information must fit the 'key criteria' in that:

- it must not indicate that it is an FOIA 2000 request
- the information will be provided
- the information will be provided within 20 working days

It is common to receive written requests for information from partner agencies, and other law enforcement bodies, such as the Crown Prosecution Service (CPS), local authorities, Independent Police Complaints Commission (IPCC), Home Office, Serious Organised Crime Agency (SOCA) and other forces.

The provision of information to these bodies is an established key business process, which should not attract the usual FOIA 2000 procedure and should whenever possible be processed as BAU.

However, such requests can only be processed as BAU when key criteria are met. If the request falls outside of the key criteria there is still an option to capture it within BAU, provided written confirmation that the requestor does not require it to be processed under FOIA 2000 is sought. In the case of doubt, a formal withdrawal obtained from the applicant will provide an audit trail, protecting NYP from any potential breach of the FOIA 2000.

Dealing with a Request that is NOT 'Business as Usual'

If a request does not fall within the BAU strategy, it must be emailed or sent to the Civil Disclosure Unit at [ins email]. The number for the Civil Disclosure Unit is 01609 643526, however, e-mail is the preferred method of communication. It is very important that this is actioned immediately, as the unit has only 20 working days to reply after the request has been received **by NYP**.

Staff of the York and North Yorkshire Combined Authority are directed to their own Records Management & Correspondence Handling Procedure (not an NYP procedure) for further details about how to deal with FOI requests received directly by the York and North Yorkshire Combined Authority.

Deciding whether a Fee is Appropriate

Generally speaking, information has to be provided free of charge, however the Police Service has discretion to charge applicants a fee in accordance with the fee's regulations.

Any fees charged must be made in accordance with the fees regulations except where fees may be charged under any other Act or memorandum of understanding (MOU).



Charging

There are two types of fees that can be charged in accordance with the fee's regulations:

- a fee to cover the marginal costs of the request – the cost of finding, sorting, editing or redacting the material. Fees can only be charged in situations where a marginal cost exceeds £450
- a fee to cover the cost of disbursements, such as printing, photocopying or postage

Any charge will be made at a standard rate and there will be no deviation from the standard rate. For detailed guidance go to the ACPO Manual of Guidance for Freedom of Information – Fees Regulations.

Discharge of Freedom of Information Requests

Where a request is identified as a FOI request, only members of staff who have been trained in FOI decision making, Legal Officers within the Civil Disclosure Unit, may reply to the requests.

Departments who have sole access to information must provide the Civil Disclosure Unit with copies of all relevant information requested.

If a department wishes to claim non-disclosure exemptions under the FOIA 2000, they must liaise with the nominated Decision Maker within the Civil Disclosure Unit, identifying the harm caused to the public or NYP. This will assist the Civil Disclosure Unit in considering whether an exemption(s) may apply and making the final decision about whether or not to disclose.

Offences Under the Freedom of Information Act 2000

Section 77 of the FOIA 2000 states that it is a criminal offence to alter, deface, block, erase, destroy or conceal any record held by the public authority with the intention of preventing its disclosure. Failure to supply the requested information to the Civil Disclosure Unit after a request is received could constitute a s77 offence under the FOIA 2000, which could ultimately result in arrest.

Any member of staff committing an offence under s77 of the FOIA 2000 will be held personally accountable for their actions.

In the Event of a Complaint

Our decisions and actions on any request will be logged and recorded by the Civil Disclosure Unit. These will be retained, together with any other pertinent information in the event of a complaint.

If a complaint is received which seeks to challenge the outcome of the initial response, then this will be treated as a request for an internal review.

Internal reviews will be dealt with within 20 working days unless particularly complex issues need to be addressed. In these circumstances the requester will be informed that a response will be provided within 40 working days.



The internal review will be carried out by somebody other than the person who issued the initial response. Where possible, this will be a more senior individual within Evolve

Structure of Review

Rigorous procedures are in place to ensure that the original decision-maker will provide the independent reviewer with all the information relevant to processing the complaint.

We will review the following aspects of the request:

1. Timescales
2. Was the applicant kept informed?
3. Was the applicant helped to locate information if not held by Police Service?
4. Was the response communicated in the format preference of the applicant? If not, why not?
5. Was a transfer or partial transfer of request made? If so, was this handled correctly?
6. Was a fees notice served and the principles of the charging regime applied?
7. Was a refusal notice served?
8. If the request appeared to be vexatious, was the correct procedure followed and the correct decision reached?
9. Was the information requested sourced correctly?
10. Was there a need to obtain additional information?
11. Were all systems and information directories searched in response to the information requested?
12. Were any problems encountered in obtaining the information from the information owners?
13. Analysis of decisions made by the FOI decision-maker in relation to any exemptions applied.
14. Analysis of the application of the public interest test and the resulting decision.
15. Review of comments made by information owners (if any) regarding disclosure of the information.
16. Discussion with the FOI decision-maker with regard to their decision logs (if appropriate).

Involving the Information Commissioner's Office (ICO)

The ICO will only accept complaints AFTER the complaint has been processed through the force's own internal complaints procedure.

Once the complaint has been reviewed by the ICO, it will be returned to the submitting force, at which point it becomes subject to that force's own internal processes once more.

The responsibility for monitoring the operation of the FOI Act and enforcing obligations placed upon public authorities lies primarily with Information Commissioner.



Responsibilities

Civil Disclosure Unit FOI Decision Makers

- ensure that requests for information comply with the act,
- ensure disclosures are in accordance with other legislation e.g. Data Protection and Human Rights etc,
- ensure that relevant exemptions to disclosure of information are applied where necessary,
- respond within the twenty working day deadline; (contact internal sources of information at the earliest opportunity to afford sufficient time to collate the data)
- ensure that guidance is available on all aspects of the act;
- promote awareness through training and advice;
- implement, maintain and develop a publication scheme
- liaise on behalf of the Force with the ACPO FOI Portfolio Group and the Information Commissioner
- ensure that appeals received are processed as required under the act; and
- ensure that the Media Department are made aware of all requests received

Operational Officers/Police Staff/York and North Yorkshire Combined Authority Personnel

- Forward all requested information to the Civil Disclosure Unit as quickly as possible so that the Decision Maker has sufficient time to meet the 20 working days statutory deadline
- check whether the information is held in their area of business within the parameters of the request;
- ascertain if the request can be dealt with inside the 18 hours legal time frame;
- ensure that relevant context is added to the request
- provide any evidence of harm if there are reservations about the disclosure of the information asked for
- return their response within the ten working day time limit

Force Command Team, Safer Neighbourhood Commanders/Heads of Department and First Line Supervision

Promote the importance of supplying the required information to the Civil Disclosure Unit without delay.