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Police and Crime
Commissioner
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ACCESS TO INFORMATION POLICY

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**Office of the Police and Crime
Commissioner for Warwickshire**

Access to Information

1. Introduction

- 1.1 The role of Office for the Police and Crime Commissioner for Warwickshire ('OPPC') is to ensure that there is efficient and effective policing in Warwickshire. The OPCC sets the strategic direction for policing in Warwickshire and holds the Chief Constable to account for the policing service delivered.
- 1.2 The OPCC is committed to making information available to the public to enable them to hold the OPPC to account. The minimum information that the OPCC will publish as part of its transparency agenda is contained within the OPCC Publication Scheme.
- 1.3 The purpose of this policy is to explain people's legal rights to access information that the OPPC holds and to explain how the OPCC deals with requests for information.
- 1.4 The policy is supported by the guidance issued by the Information Commissioner's Office and relevant Government departments from time to time.

2. Responsibilities

- 2.1 The OPPC is headed by an elected individual, the Police and Crime Commissioner ('PCC'). The responsibilities of the PCC are set out in the Police Reform and Social Responsibility Act 2011 and some of the main responsibilities of the PCC are:
 - Appoint (and dismiss) the Chief Constable
 - Hold the Chief Constable to account
 - Produce a 5 year Police and Crime Plan
 - Set the annual precept and budget
 - Publish an annual report
 - Commission activities through the allocation of Home Office funding
 - Approve mergers of and enable joint working between Community Safety Partnerships
- 2.2 Police operations are the responsibility of the Chief Constable and police force. Information on individuals is more likely to be held by the police than the OPCC.
- 2.3 All Employees
 - Awareness of the relevant legislation relating to requests for information;
 - Requests for the information are processed in accordance with agreed policies and procedures;

- Responsible for the information request until closed or transferred and accepted by another member of staff, or transferred and accepted by another public body;
- Responsible for ensuring that information created as part of their day to day duties is accurate, appropriate and managed to allow efficient and timely retrieval of information;
- Responsible for ensuring that fees charged are in accordance with this policy;
- Responsible for ensuring records are created and maintained to defined OPCC policies and procedures;
- Responsible for ensuring requests are processed in accordance with the OPCC's procedures and the requestor is made aware of the relevant complaints procedure.

3. Scope of this policy

3.1 This policy is intended to help members of the public as well as the OPCC. The obligations in the policy apply to everyone working on the OPCC's behalf, that is:

- All permanent employees
- All temporary/ contract employees employed or engaged by the OPCC
- Workers/ volunteers employed or engaged by the OPCC
- All employees of partner or subsidiary organisations whilst at work and/or engaged on OPCC business
- All contractors and subcontractors engaged by the OPCC and their employees, agents and representatives

3.2 Any reference in this document to "employee" is deemed to be a reference to any of the above.

4. Information already made available

4.1 The OPCC already makes a great deal of information available for the public. For example, information can already be accessed:

- on the OPCC website at www.warwickshire-pcc.gov.uk which provides a large amount of information about the OPCC's services, activities, consultations and OPCC meetings; and
- in our Publication Scheme <http://www.warwickshire-pcc.gov.uk/key-information/policies-procedures/publication-scheme/> which explains and gives public access to information we regularly maintain and make available.

The OPCC is committed to increasing its publication of useful and relevant

information, and keeping pace with any further publication obligations that may be placed on the OPCC in the future.

- 4.2 The OPCC may assert copyright or other intellectual property rights over some information that it publishes but it will explain the conditions under which members of the public can still use this information. There may be a charge for the use of certain information although the OPCC intends to make available as much information as possible, free of charge, under the Open Government Licence
- 4.3 Any information made available under the Open Government Licence, the terms of which are available at [Open Government Licence v3.0](#), must be reproduced accurately and not used in a misleading way.
- 4.5 When the material is being republished or copied to others, the source of the material must be identified and the copyright status acknowledged by including the following attribution: "© Office of the Police and Crime & Commissioner for Warwickshire, licensed under the Open Government Licence v3.0".

5. Specific requests for information

- 5.1 In addition to information that the OPCC makes readily available, members of the public have the right to request access to information that the OPCC holds under various pieces of legislation.
- 5.2 The OPCC recommends that someone wishing to access information should first check the OPCC website and the Publication Scheme Guide to see if the information is already publically available. Members of the public wishing to make specific requests for information are asked to be considerate of the impact that making requests has on valuable public resources and to ensure that requests are necessary (rather than trivial) and appropriately phrased so as to be manageable.
- 5.3 The three main legal rights are to be found in: the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Data Protection Act 1998.
- 5.4 The **Freedom of Information Act 2000 (FOIA)** gives an individual the right to make a written request to the OPCC for information that the OPCC holds. The OPCC is obliged to inform the requestor whether it holds that information and to supply it within 20 working days, unless an exemption from disclosure applies.
- 5.5 The **Data Protection Act 1998 (DPA)** gives an individual the right to ask what personal information is held about them and subject to exemptions, to be supplied with that information within 40 calendar days. These are known as 'subject access requests' and there is a requirement under DPA that such requests are made in writing. The OPCC has a Data Protection & Information Security Policy and Privacy Policy which sets out the OPCC's responsibilities under the DPA generally.

5.6 The **Environmental Information Regulations 2004** (EIR) gives a person a right to make a written or verbal request to the OPCC for environmental information. Environmental information includes information about air, water, soil, land, flora and fauna, energy, noise, waste and emission, related information including analysis and surveys and certain information about human health and the food chain, built structures and cultural sites. The OPCC is obliged to respond to the EIR request within 20 days, or 40 working days if the request is complex or voluminous. There are certain categories of information that the OPCC may not be obliged to disclose if they fall within the exceptions under the EIR.

5.7 The rights created by the FOIA, DPA and EIR legislation do not affect rights of access to information that exist independently under different regimes, nor do they alter any existing laws that prohibit the disclosure of information. A useful table setting out the main differences between the various routes for requesting information can be found at Appendix A.

6. How to make a request for information

6.1 Requests under FOIA or EIR

6.1.1 Members of the public can make requests for information under FOIA or EIR in a number of ways:

- Completing an online form;
- Completing a Request for Information Form and sending it to us electronically or in paper form;
- Emailing a request to opcc@warwickshire.gov.uk;
- Sending a request by post for the attention of The Chief Executive at the following address:

Warwickshire's OPCC
3 Northgate Street
Warwick
CV34 4SP

6.1.2 Requests for information under the EIR can also be made verbally to the OPCC. However to ensure that a request is properly understood and dealt with accurately, it is recommended that members of the public confirm the request in writing where possible.

6.2 Requests for personal information under DPA

6.2.1 There may be a number of circumstances in which the OPCC holds personal details in respect of an individual which that individual may like to see.

6.2.2 Under the Data Protection Act 1998 (the '1998 Act'), you have a statutory right to have access to personal data we hold about you on computer or in a structured

manual file (i.e. on paper), unless an exemption applies. You also have a right to expect us, as data controller, to ensure that data is:

- > Processed fairly and lawfully
- > Obtained for specific and lawful purposes
- > Adequate, relevant and not excessive
- > Accurate and where necessary kept up to date
- > Not kept for longer than is necessary
- > Processed in accordance with the rights of the data subject
- > Kept secure
- > Not transferred abroad unless to countries with adequate data protection laws.

6.2.3 For the purposes of the 1998 Act, "personal data" is information that relates to a living identifiable person. The person or organisation who controls the purpose and manner in which data is processed is the "data controller". More information on the Data Protection Act can be found on the website or from the address of the Information Commissioner, given below.

Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
www.informationcommissioner.gov.uk

6.2.4 Where we are the data controller, you are entitled to be told whether we hold data about you, and if we do:

- To be given a description of the data in question
- To be told for what purposes the data is processed
- To be told the recipients, or classes of recipients, to whom the data is or may be disclosed

6.2.5 You are also entitled to a copy of the information with any unintelligible terms, acronyms or codes explained. You will also be given any information available to us on the source of the data. The data will be in its latest form.

6.2.6 If you wish to apply for access to your personal data, known as a subject access request you should write to the OPCC, addressing your request to the Chief Executive. A fee of £10 must accompany your request, together with proof of your identity. We also need to be supplied with the details you need in order to locate the information you seek. A request for access to personal data will be dealt with promptly and in any event within 40 days of receipt of the request and payment of the fee.

The OPCC may request certain information from an individual to verify their identity before responding to a subject access request.

- 6.2.7 In many cases it is the Police and not the OPCC who hold personal information. The Police National Computer (PNC) includes information on prosecutions, convictions and cautions. The Chief Constable is the "data controller" for this information and not Warwickshire's OPCC. In these cases the OPCC will refer your request to the Chief Constable and you will be informed of this fact.
- 6.2.8 You have the right to be told by the Chief Constable whether any information is held about you on the Police National Computer and a right to a copy of that information. The Chief Officer will give that information if he is satisfied as to your identity and on payment of a fee of £10. The Chief Constable may deny access to this information where the information is held for the prevention or detection of crime or for the apprehension of prosecution of offenders and where release of the information would be likely to be prejudicial to any of these purposes, or covered by an exemption within the FOIA.
- 6.2.9 Police forces provide a form to simplify the exercise of your subject access rights to PNC information. In the case of Warwickshire Police you should contact:

Information Compliance
Warwickshire Police
Newbold Road Rugby
Warwick
CV212DH

7. Fees

7.1 Requests for information under FOIA

7.1.1 If information that has been requested is not already available the OPCC's aim is to make as much as possible available to requestors free of charge. However where it will take time to gather or prepare the information requested, that is deemed to be over the prescribed limit (currently £450 based on 18 hours at a standard rate of £25 per hour), the OPCC is entitled under FOIA to refuse to supply the information or charge for that work.

7.1.2 It is OPCC's usual policy is to refuse requests that exceed this prescribed limit. However OPCC staff will work with the requestor to bring their request under this limit or where appropriate provide any relevant information for under this limit. If a request does attract any charges we will ask the requestor whether they wish to continue with the request before we undertake the work

7.1.3 If the information is readily available, the OPCC may make a charge for photocopying. The actual fee depends on the amount of information that has been requested.

7.1.4 Requestors will be advised of any charges following receipt of their request by the OPCC. The detailed charges that may be levied for printing, copying, postage and supplying the information in a specific format are listed in Appendix B.

7.2 Requests under DPA

7.2.1 The OPCC may charge for supplying any information requested under the Data Protection Act 1988, up to a maximum of £10.00, either as photocopies or on electronic media.

7.3 Requests under EIR

7.3.1 In respect of charges under the Environmental Information regulations the OPCC is entitled to make a charge it considers 'reasonable' for providing copies of the requested information. In most circumstances these charges will generally be the same as those made under the Freedom of Information Act. However, in some circumstances the OPCC is entitled to take into account other factors such as the time taken to locate and retrieve the information, as well as the cost of photocopying and postage when calculating what a 'reasonable' charge is.

7.3.2 Details of charges for specific types of documents that may contain environmental information can be found on the OPCC's website and requestors will be advised of any charges following receipt of their request by the OPCC. No charge would be made for allowing a member of the public to simply inspect such information at a place chosen by the OPCC.

7.4 Any other requests for information

7.4.1 The OPCC may charge for the cost of responding to other requests for information outside the scope of FOIA, EIR or DPA, to the extent that the law allows from time to time. Any such charges will be notified to the requestor from the outset.

8. Complaints

8.1 Requests under FOIA or EIR

8.1.1 Our policy is to be as open as possible and supply the information you have requested, but we may withhold information if we consider the information falls within one of the exemptions or would involve significant staff time in locating and preparing the information for release. If the OPCC refuses to supply all or part of any other information you have asked for under FOI or EIR, we will write to you giving our reasons for refusal. If you are not satisfied with the reasons or the manner in

which your request was dealt with you have the right to request that the OPCC carry out an internal review of the matter. All requests for an internal review should be made in writing within 40 working days of you receiving the OPCC's final response to your request and the matter will be dealt with under the OPCC's internal review procedure.

- 8.1.2 The Office of the Police and Crime Commissioner's (OPCC) internal review procedure in respect of requests for information is a single stage review process undertaken by the Chief Executive of the OPCC. In most cases the internal review should take no longer than 20 working days from the date the request for a review is received by the OPCC. In some circumstances the review may take longer due to the complexity of the particular matter, however, it should take no longer than 40 working days. We will keep you informed if we estimate that it will take more than 20 working days to send you a response.
- 8.1.3 If the internal review concludes that all or some of the information you have requested should be disclosed to you, then the relevant information will be disclosed to you as soon as is reasonably practicable and you will be informed of how long this will take. If the conclusion of the internal review is to uphold the original decision not to disclose some or all of the information requested, then reasons for withholding such information will be given.
- 8.1.4 If you are not satisfied with the outcome of the internal review, you may also appeal to the Information Commissioner if you feel we have not complied with our obligations. Your rights are explained on the Information Commissioner's website.

8.2 Requests (including Subject Access) under DPA

- 8.2.1 If a person making a subject access request under DPA is dissatisfied with the response they have received, they should contact the member of staff at the OPCC who dealt with their request and see if they can resolve their concerns. If the person remains dissatisfied following that review they are entitled to complain to the Information Commissioner's Office (details at 8.3 below). If the individual's complaint is complex and extends beyond how their subject access request was dealt with (for example includes complaints about the services they have received), then it may be appropriate for it to be dealt with under the OPCC's Complaints Procedure.

8.3 Complaining to the Information Commissioner's Office

- 8.3.1 If once a complaint regarding a request for information has been considered by the OPCC and the requestor is not satisfied with the outcome, then they are entitled to complain to the regulator, the Information Commissioner's Office. The website is: www.ico.gov.uk and the postal address is as follows:

FOI Compliance Team (Complaints)
Wycliffe House

Water Lane
Wilmslow
Cheshire
SK9 5AF

9. Training and Information for Employees

- 9.1 Training and information will be made available to all employees of the OPCC involved in dealing with requests for information so that they are aware of their responsibilities. If an employee is unsure about what they need to do on receipt of a request, then they should contact the Chief Executive.

10. Performance and Management Reporting

- 10.1 The OPCC is obliged to respond to requests for information within the timescales laid out in each of the legislation. Sometimes timescales may be legitimately extended for example when further information or clarification is sought by the OPCC from the requestor.
- 10.2 Data is collected by the OPCC on the number of requests under each type, any fees collected and our performance in responding to those requests within timescales. Where exceptions and exemptions apply, this information will be recorded in order to build a knowledge base to help with future enquiries

Appendix A - Types of Request

| Request | Request Format | Legislation | Statutory Deadline |
|--|------------------------|--|---|
| Personal information about the applicant (or someone authorised to act on their behalf) | Must be written | Data Protection Act | 40 calendar days |
| Personal information about someone else (a third party) | Must be written | Data Protection Act & Freedom of Information Act | 40 calendar days where the request falls within the DPA, otherwise 20 working days |
| Information about the environment or human interaction with the environment (land, landscape, soil, water, air, atmosphere, flora and fauna; emissions, pollution and smog; sewers and drainage; cultural sites; the food chain; pesticides; policies and any plans and agreements affecting any of the above). | Can be oral or written | Environmental Information Regulations | 20 working days (can extend to 40 days for large or complex enquiries) |
| Any other written information. | Must be written | Freedom of Information Act | 20 working days |
| General advice e.g. opening hours, how to get to the office, anything which can be answered immediately from memory e.g. local knowledge etc. | Any | None - operate as normal - OPCC daily practice/ procedure | None but OPCC standards for customer care apply |
| General business correspondence | Any | None - operate as normal - OPCC daily practice / procedure | None but OPCC aim to acknowledge all correspondence within 72 hours of receipt with a substantive response provided within 28 working days. |

Appendix B – Fees

| TABLE OF FEES WHICH MAY BE CHARGED IN PROVIDING COPIES OF INFORMATION UNDER ACCESS TO INFORMATION LEGISLATION | |
|--|--|
| Copy charging for | Maximum fee |
| Black & white copy of A4 sheet | 10p per sheet |
| Colour copy of A4 sheet | 50p per sheet |
| CD/DVD/USB | At cost |
| Other charges - environmental information only | Other costs that the OPCC considers "reasonable" - factors such as time taken to locate and retrieve information may be taken into account |