



NOT PROTECTIVELY MARKED

WEST MIDLANDS POLICE

Force Policy Document

POLICY TITLE: Freedom of Information

POLICY REFERENCE NO: CC/04

Executive Summary.

West Midlands Police is committed to implementing the provisions of the Freedom of Information Act 2000 and its principles of openness and accountability.

**Any enquiries in relation to this policy should be made directly with that of the policy contact/department shown below.

Intended Policy Audience.

This policy applies to every police officer, member of police staff, police community support officer, special constable, volunteer, contractor, and approved persons working for or on behalf of West Midlands Police

Current Version And Effective Date.	1.2	05/03/2015
Business Area Owner	Corporate Communications	
Department Responsible	Freedom of Information	
Policy Contact	Freedom of Information Manager on 7630 6260	
Policy Author	Carl Bird (51037)	
Approved By	DCC Thompson	
Policy Initial Implementation Date	17/03/2015	
Review Date	17/03/2017	
Protective Marking	Not Protectively Marked	
Suitable For Publication – Freedom Of Information	Yes	

Supporting Documents

- ACPO Freedom of Information Manual of Guidance
- Data Protection Policy
- Records Management Policy
- Guidance on the Management of Police Information
- Freedom of Information On-Line Training F-16
- *Code of Ethics* (http://www.college.police.uk/docs/Code_of_Ethics.pdf)

Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

Please Note.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY, GUIDANCE or FORCE DIRECTIVE – ORDER, CAN BE FOUND ON THE INTRANET A to Z POLICIES SITE.

Force Diversity Vision Statement and Values

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, staff and officers at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender, reassignment, religion, belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

Code of Ethics

West Midlands Police is committed to ensuring that the Code of Ethics is not simply another piece of paper, poster or laminate, but is at the heart of every policy, procedure, decision and action in policing.

The Code of Ethics is about self-awareness, ensuring that everyone in policing feels able to always do the right thing and is confident to challenge colleagues irrespective of their rank, role or position

Every single person working in West Midlands Police is expected to adopt and adhere to the principles and standards set out in the Code.

The main purpose of the Code of Ethics is to be a guide to "good" policing, not something to punish "poor" policing.

The Code describes nine principles and ten standards of behaviour that sets and defines the exemplary standards expected of everyone who works in policing.

Please see http://www.college.police.uk/docs/Code_of_Ethics.pdf for further details.

The policy contained in this document seeks to build upon the overarching principles within the Code to further support people in the organization to do the right thing.

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Acronyms:

FOI	Freedom of Information
WMP	West Midlands Police
ICO	Information Commissioners Office
ACPO	Association of Chief Police Officers
BAU	Business as Usual
RTC	Road Traffic Collision

1 BACKGROUND.

- 1.1 West Midlands Police (WMP) has a legal obligation to comply with the Freedom of Information (FOI) Act. The Act provides significant rights of access to all WMP information. The FOI Act was introduced to all public authority organisations and agencies in the UK in 2005. The Act is fully retrospective and applies to any information held of any age.
- 1.2 The Act is regulated by the Information Commissioners Office (ICO) which has various powers to encourage public authorities to comply with the Act, including prosecution of those who commit offences.
- 1.3 The Act was a major step in terms of openness and accountability and its implementation has allowed West Midlands Police to serve the public more effectively whilst enhancing public knowledge of the way that we carry out our duties and responsibilities. It is anticipated that the Act will assist in effective records management and enable a more informed public debate.
- 1.4 Compliance with the Act will increase trust and confidence in West Midlands Police, as it demonstrates our commitment to openness and transparency.

2 INTRODUCTION.

- 2.1 The purpose of this policy is to ensure the Force complies with the legal requirements of the FOI Act and that a culture on openness and transparency exists within West Midlands Police. This Policy describes the roles and responsibilities of all WMP personnel in achieving this aim.
- 2.2 West Midlands Police will adhere to the ACPO Manual of Guidance as the basis for its procedure in responding to requests and publishing data under the FOI Act.

3 THE FOI ACT

- 3.1 The Act imposes an obligation on the Force to disclose, on request, all information that it holds, subject to various exemptions.
- 3.2 Any person, anywhere in the world, can make a written request for information.
- 3.3 The FOI Act obliges the Force to provide a response within 20 working days.
- 3.4 The Force can only charge fees in such situations when the prescribed costs exceed the appropriate limit. The appropriate limit currently stands at £450 and relates to the time spent searching, retrieving and extracting the information. Any other aspect of processing the request cannot be included in this calculation.
- 3.5 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.
- 3.6 It is the duty of West Midlands Police to provide advice and assistance to any person who has made, or intends to make, a FOI request.

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- 3.7 The Act provides the right for a requester to ask WMP to re-evaluate any response (Internal Review). If they are still not satisfied they can ask for the ICO to investigate the response (an Appeal). The requester or the public authority can challenge any decision by the ICO at an Information Tribunal.
- 3.8 The FOI Act requires West Midlands Police to adopt and maintain a publication scheme. The force will maintain an Internet-based scheme that sets out the types of information readily available through the scheme and how this information can be obtained. If information is already in the public domain, for example via the Force Internet or through the publication scheme, the Force will be exempt from providing that information again in response to a request.
- 3.9 Where information is also required as part of the publication scheme, the department responsible will provide information to the agreed standards and timescales.

4 TRANSPARENCY AND PRO-ACTIVE PUBLICATION

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

5 WHAT IS COVERED BY THE FOI ACT?

- 5.1 All information held by West Midlands Police, no matter how recorded, is subject to the FOI Act.
- 5.2 This includes written records, typed, handwritten or scribbled notes, emails, flip-charts, videos, audio tapes, logs, answer phone messages, tapes of telephone conversations, electronic data and archived records.
- 5.3 Any information, documentation or record that is produced internally by the Force, or held by contractors or third parties on behalf of the Force, is covered by the Act.

6 DEFINING A REQUEST

- 6.1 Under the Act a request is valid if:
- It is in writing;
 - It states the name of the applicant;
 - It has an address for correspondence (including email or twitter account); and
 - It is legible and describes the information requested.
- 6.2 Requests can be made by letter, fax, email, Twitter or Facebook account.
- 6.3 The Act refers to information that is recorded at the time of receipt of the request. This means there is no obligation to supply opinions or to comment on events unless those opinions or comments are already recorded.
- 6.4 Certain 'business as usual' (BAU) requests do not need to be processed formally through the Act. See 7.3.2 to 7.3.4 below.

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- 6.5 Requests for a person's own personal data are classed as Subject Access and will be processed in accordance with the Data Protection Act 1998 by the Data Protection Unit (see Data Protection Policy).

7 ROLES AND RESPONSIBILITIES

7.1 Officers and Staff

- 7.1.1 Officers and staff should be aware of the Act and their legal obligations under the Act. Officers and 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 West Midlands Police. For example contractors should be informed that any tender documents they supply to West Midlands Police may be released into the public domain if a request is received under the FOI Act.
- 7.1.2 In accordance with Section 16 of the Act, every officer or member of staff throughout the organisation has a duty to assist a requester making a request for information, and providing advice and assistance to requesters. This includes helping requesters to make a valid FOI request, subject access request or 'business as usual' request.

7.2 Recording and storing information

- 7.2.1 Officers and staff should record and store information as prescribed in Records Management Policy (Policy and Procedure Manual: R02).
- 7.2.2 Officers and staff should be aware that all recorded information is liable to disclosure. This includes information provided by third parties, data held in personal email accounts etc.

7.3 Receiving a request

- 7.3.1 Any request for information under the terms of the FOI Act received by any officer or member of staff should be forwarded to the FOI Unit as soon as it is received.
- 7.3.2 It is recognised that it is not necessary to treat every request for information to the Force as a request under the Act, as this will cause unnecessary delay.
- 7.3.3 Requests which are clearly 'business as usual' (BAU) can be dealt with directly (e.g. RTC disclosures to insurance companies or disclosures to victim support). Normally such disclosures will be to a single person or organisation and have an agreed procedure outlining the purpose for which the information is being supplied.
- 7.3.4 General enquiries or requests for information which can be answered at a local level within the 20 working day time limit do not need to be dealt with by the FOI Unit, unless there is any possibility that the information could be harmful.
- Harmful information includes information which concerns an investigation or individual, is operationally sensitive or could otherwise be detrimental to an individual, law enforcement, the Force or the Police Service. LPUs or Departments should not respond directly to such requests.
- 7.3.5 **However it is important that any request for information which makes reference to the Freedom of Information Act must be forwarded to the FOI Unit, regardless of the nature of the information requested.**

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7.3.6 If there is any doubt regarding how to recognise or deal with a request, contact should be made immediately with the FOI Unit for guidance.

7.4 Providing information to the FOI Unit

7.4.1 When a valid request is received by the FOI Unit, the Unit will identify who within the Force owns the requested information. The information owner will be responsible for providing all of the relevant information to the FOI Unit so that they can compile a response. While an information owner will often be a Head of Department or similar, the request may be sent directly to any officer or member of staff who owns or has a direct knowledge of the requested information.

Any officer or member of staff who is asked by the FOI Unit to provide information will:

- Establish if they hold the information and, if not, contact the FOI Unit immediately
- Establish if the request is clear or requires any further clarification. If clarification is required the information owner should contact the FOI Unit immediately.
- Establish if the information can be located, retrieved and extracted within 18 hours. If not, an explanation should be sent to the FOI unit, along with a description of the information which could be provided.
- Provide all relevant information to the FOI Unit in a timely manner and within 5 working days.
- Provide the FOI unit with their views on release and, if relevant, provide evidence of the harm in releasing the information (e.g. crime tactics, identification of offender/victims, force capabilities).

7.4.2 It is a requirement of the Act for the FOI Unit to see all of the requested information, even if the information is not going to be released to the requester. This allows the Unit to ensure that any response complies with all the legal requirements of the Act. If there are concerns about sending the information then contact should be made with the FOI Unit to discuss options before sending it.

7.4.3 Where information is required for the publication scheme, staff will provide the information in the agreed format and to the agreed timescales. Departments will ensure that the information will not contain any data that could be harmful to policing or to individuals.

8 ROLES AND RESPONSIBILITIES – THE FOI UNIT

8.1 The FOI Unit are responsible for recording and responding to all FOI requests received by WMP. In particular the Unit will:

- Co-ordinate, manage and track every request
- Undertake all correspondence with the requester, including acknowledging, clarifying and answering the request
- Identify the department, officer or member of staff likely to own the requested information and co-ordinate the collection of the relevant information
- Retain all correspondence (internal and external) for a period of two years for audit trail purposes and to assist with any subsequent internal review or appeal to the ICO or the Information Tribunal
- Where practicable, liaise with all relevant parties, including the Legal Services Department, ACPO Central Referral Unit, Chief Officers, Department Heads and Corporate Communications

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- Make the decision to release or withhold the information
- Apply any relevant exemptions and where necessary construct the public interest test using the harm supplied by the officer or staff
- Where necessary redact or summarise the document to remove exempt information
- Send the final response to the requester, including, where relevant, any refusal notice and public interest test
- Manage all requests for internal review
- Liaise with the ICO regarding any appeal and manage the force's response
- On being informed of an information tribunal, liaise with legal services and all relevant parties
- Help maintain the publication scheme and monitor compliance

9 EQUALITY IMPACT ASSESSMENT (EQIA).

9.1 The Policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:

- Eliminate discrimination, harassment, and victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.

10 HUMAN RIGHTS.

10.1 This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its implementation would impact on the core duties and values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm, effecting that of:

Right to Respect for Private and Family Life (Article 8 – section 2):

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

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11 FREEDOM OF INFORMATION.

- 11.1 Public disclosure of this policy document is determined by the Force Policy Co-ordinator on agreement with its owner. Version 1.2 of this policy has been GPMS marked as Not Protectively Marked.
- 11.2 Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole document	Section number
N/A		

12 TRAINING.

- 12.1 Successful completion of the on-line Freedom of Information E-Learning package is a requirement for all West Midlands Police Personnel. The training provides a basic understanding of the FOI Act.
- 12.2 The training is an on-line, self-teach programme, delivered via the Intranet and can be accessed from any terminal connected to the Intranet, anywhere in the force, at any time of day. The training programme should take between 15 and 60 minutes to complete.
- 12.3 A pass mark of 70% is required for successful completion of the package. Any employee who fails to achieve the standard should be given time to re-sit the package and pass the test. The line manager / supervisor should decide whether the employee requires remedial training prior to re-sitting the test. Any employee who fails a second time should be given one-to-one instruction under arrangements made by the line manager / supervisor.
- 12.4 All Managers and supervisors should encourage individuals to refresh their knowledge of Freedom of Information and the requirements the Act places upon them at every opportunity.

13 PROMOTION/DISTRIBUTION & MARKETING.

- 13.1 The following methods will be adopted to ensure full knowledge of the Policy:
- 13.2 Details of this policy will be available on the force Policy Portal with specific guidance available from the Freedom of Information Unit, Corporate Communications.

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14 REVIEW.

- 14.1 The Freedom of Information manager maintains outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
- 14.2 The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
- 14.3 A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
- 14.4 Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
- 14.5 Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.



CHIEF CONSTABLE

15 VERSION HISTORY

Version	Date	Reason for Change	Amended/Agreed by.
1.1	21 st January 2015.	Comments from Vicki Couchman and Tim Godwin	Carl Bird
1.2	05 March 2015	Small amends Comments from Dan Barton	Carl Bird
1.2	17/03/2015	Policy signed off by CC – now live. Added policy ref no & signature-published.	56408 Couchman