

MAKING AN FOI REQUEST

What You Can Expect

If you apply for information under the FOIA, you have the following rights:

- The right to be told whether we hold the information; and
- The right to receive the information you've requested, subject to the application of exemptions.

The Police Service's policy is to contact you to clarify your request upon receipt if necessary. This will help us to provide you with the most efficient service possible and narrow down the search for information you require, thus assisting you to the best of our ability.

We will acknowledge receipt of your request and provide you with an estimated time within which it will be dealt.

With straightforward requests, this will be within 20 working days (as stipulated in the legislation) and the first working day is classed as the day AFTER we receive the request.

Where we are required to apply more complicated qualified exemptions, we can 'stop the clock'. This means that for more complex requests or requests referring to sensitive information, we have more time to make a decision but we will inform you of how long it may take.

Another obligation we have under the Act is to provide the information in the requested format, subject to cost considerations. These will be explained shortly.

What You Must Do

For a request to be valid under FOI, it must meet a number of criteria including:

- It must be made in writing by letter, fax or e-mail;
- It must clearly describe the information being sought;
- It must be legible;
- It must contain the name of the applicant and a contact address, even if this is only an e-mail address; and
- Although not mandatory, it would assist us if you provided a telephone number.

FOI requests can be made from anyone anywhere in the world and they can be made by an individual or an organisation.

If you wish to make an FOI request, you neither need to mention the Freedom of Information Act in your application nor are you obliged to use a special form. However, it will help us to fast track your application if you mention the Act and use the application form.

What's Covered?

The UK's Act is unique in that it is fully retrospective. As long as the public authority holds the information, it must consider releasing it.

The Act covers records capable of recovery **in any format**, no matter how it's recorded.

The FOI Act:

- Applies to information not data;
- Applies to information and not just documents;
- Applies to written records, typed, handwritten and scribbled notes, e-mails, spreadsheets, photographs, exhibits, tapes records, flip-charts, videos, audio tapes, computer tapes, logs, answer phone messages, tapes of telephone conversations, archived records;
- Applies to structured and unstructured information; and
- Applies to any information, documentation or record that's produced internally by a public authority, or held by contractors or third parties on behalf of the public authority, is covered by the Act.

Fees & Charging

When dealing with FOI requests, the Police Service can charge for two types of fees:

- Marginal costs; and
- Disbursements

Marginal Costs

Where the cost of dealing with a request is less than £450, we will provide the information free of charge.

Costs that may be included in the £450 limit are:

- Time taken in determining whether the information's held;
- Time taken in locating and retrieving the information;
- The first full reading of the information by the FOI decision-maker;
- Time taken in extracting information to be disclosed from other information;
- Time taken in editing, summarising or redacting (making invisible) information which is covered by an exemption;
- Time taken in communicating information including time spent writing a response to the request; and
- Time spent making arrangements for an applicant to view documents, books, and videos or electronically held information.

The Police Service will charge a standard hourly rate of £25 when estimating the cost of an FOI request. This equates to approximately 18 hours of work.

Costs that are not included are:

- Time taken to make a decision as to whether the material should be exempt under the Act;
- Time taken in obtaining authorisation to send out the information;
- Time spent to obtain the consent for disclosure from another public authority or any other individual or organisation; and
- Any overheads.

If your request for information will exceed the £450 limit, there are a range of options available to the Police Service. These are:

- Declining to answer the request since the cost of compliance will exceed the limit;
- Answering the request but charging for the full cost. This means that where the cost of answering the request is £500, we can pass the full cost onto you and not just the £50 over and above the £450 limit;
- Answering the request and waiving the fee;

- Entering into a discussion with you to refine the question to a more manageable level that would fall within the fees limit;
- Contacting you to determine whether you would like part of the information up to the prescribed maximum;
- Discussing with you whether you would like your request to be dealt with outside the FOIA;
- Discussing with you whether you would like a summary or digest of the information you have requested; and
- Offering you the opportunity to view the information if the cost of providing it in permanent form be too costly.

Disbursements

The Police Service can pass on the full cost of disbursements incurred in responding to an application to the applicant.

The maximum amount that may be passed on is £50.

Disbursements include:

- Photocopying or printing material;
- Postage;
- Producing material in an alternative format, such as putting it onto CD-Rom, video, audio cassette or in Braille; and
- Translating information into a different language at the request of the applicant (not Welsh). If a public authority regularly works in the language requested and has an in-house translation service, it should consider waiving any translation costs.

The following charges for disbursements have been agreed:

Cost per photocopy	10p per page
CD-Rom Disk	Free
Postage	As per Royal Mail
Packing	At cost
Video	At cost
Floppy Disk	At cost

Fees Notices

Where the cost of the request will exceed the £450 limit, we will send out a fees notice. This will be within a maximum of 20 days.

Applicants will then have 3 calendar months to meet the fees notice so that the request may be processed.

Fees are not subject to VAT.

On occasions, fees may also be charged for information that appears on the force publication scheme. Details of any charges will be clearly stated on the publication scheme itself.

Transferring Requests

If we receive a request and do not hold the information, we will transfer the request on your behalf and with your prior agreement. If you would prefer, you will be given the option of re-submitting independently.

If we hold some but not all of the information you are asking for, we will provide what we can and transfer the remainder of the request to the relevant authority with your agreement.

If we receive a request, do not hold the information and are unsure as to where the information might be held or feel a transfer may be inappropriate, we will advise you accordingly.

Consulting with a Third Party

Where a request for information might impact the legal rights of a third party, we will consult with the third party prior to the release of any information. However, where the Police Service is the original receiving authority, we will take the ultimate decision on the release of information, whether that is in its entirety or as an edited version.

Providing Assistance

Having researched the experience in other countries with similar legislation, we are committed to providing the best service we can in respect of FOIA applications.

Where necessary, we will contact you to establish a rapport at an early stage and clarify exactly what information is required, particularly where the request is ambiguous or the information is unidentifiable.

If you are unable to make a request in writing – due to illiteracy, disability or illness, for example – we are committed to providing assistance.

Communicating Information

When requesting information, you may express a preference for the format in which you wish to receive the reply, whether that be in permanent form or in another form.

We will also provide:

- Reasonable opportunity for you to inspect a record containing the information; and/or
- A digest or summary of the information in permanent form or in another form acceptable to you

We will comply with your preferred form of presentation as far as it is reasonably practicable. In determining whether it is reasonably practicable, we will review all the circumstances, including the cost.

Where we are unable to comply with your preferred format, we will notify as to the reasons why. Where you have not specified your preferred method of communication, we will provide the information by any means reasonable in the circumstances.

Where a request for information has been made successfully, we will advise you in writing of the following:

- The decision;
- The date on which it was made;
- The name and designation of the person who dealt with the request;
- Form and manner of access; and
- Your right to complain, including details of the internal complaints procedure and the Information Commissioner's details.

Where a Request is Refused

Where we receive a request for information and its release is refused, we will advise you, the applicant, within 20 days, of the following:

- The decision;
- The day on which it was made;
- The name and designation of the person who dealt with the request;
- The grounds for refusing the request, e.g. the application of an exemption, in the public interest, cost of compliance;
- When exemption/s are used, the specific exemption used and the reasons for using the exemption;
- When the public interest test has been considered, the reasons why it was applied;
- Any other issues relevant to the decision or matters that were taken into consideration; and
- Details for the internal procedures for dealing with complaints and your right to apply to the Information Commissioner for a decision notice.

Note: The Police Service is not obliged to state why an exemption applies if by doing so, exempt information would be revealed.

Dealing with Vexatious or Repeat Requests

The Police Service can refuse to process an FOI request if we consider it to be either vexatious or repeated, or both.

If this is the case, we will inform you within 20 days of receiving the request. At the same time, we will provide details about our internal procedures for dealing with complaints and your right to apply to the Information Commissioner for a decision notice.

If a notice has already been issued that a request is repeated or vexatious, we will not send out a further notice.

Where a second request is received for information that has already been provided and the second request is identical or substantially similar, we will not comply with the request unless a reasonable time has elapsed between the two requests.

The Complaints Procedure

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

Structure of Review

We have rigorous procedures in place to ensure that the original decision-maker will provide an independent reviewer with all the information relevant to processing the complaint.

We will review the following aspects of the request:

- Timescales.
- Was the applicant kept informed?
- Was the applicant helped to locate information if not held by Police Service?
- Was the response communicated in the format preference of the applicant? If not, why not?
- Was a transfer or partial transfer of request made? If so, was this handled correctly?
- Was a fees notice served and the principles of the charging regime applied?
- Was a refusal notice served?
- If the request appeared to be vexatious, was the correct procedure followed and the correct decision reached?
- Was the information requested sourced correctly?
- Was there a need to obtain additional information?
- Were all systems and information directories searched in response to the information requested?
- Were any problems encountered in obtaining the information from the information owners?

- Analysis of decisions made by the FOI decision-maker in relation to any exemptions applied.
- Analysis of the application of the public interest test and the resulting decision.
- Review of comments made by information owners (if any) regarding disclosure of the information.
- 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.

Failure to comply with notices issued will be treated as contempt of court.

The Information Commissioner has the power:

- To issue decision notices;
- To enforce the right of access to information; and
- Enforce sanctions.

Timing

It is the Police Service's policy to deal with complaints and appeals in a timely manner. Thus, the target time for responding to appeals and complaints should be *as soon as practicable and in any case within three months.*

