

Ref: 2023.19

Request Date: 15.06.2023

Response to a request under the Freedom of Information Act

I am writing to make a formal request for information under the provisions of the Freedom of Information Act 2000. I kindly request that you provide me with the following information:

Two duties are placed on public authorities under Section 1 of the Freedom of Information Act 2000 (FOIA). Notwithstanding applicable exemptions, the first duty at, Section 1(1) (a), is to confirm or deny whether the information specified in a request is held. The second duty at, Section 1(1) (b), is to disclose information that has been confirmed as being held.

Section 21 states that if the information is available by other means, there is no obligation to provide it.

- 1. A copy of your organisation's Records of Processing Activity (ROPA) as defined in Article 30 of the UK General Data Protection Regulation (UK GDPR).**

No information held.

- 2. A copy of all legitimate interest assessments conducted by your organisation where you rely on Article 6(1)(f) legitimate interests as your lawful basis for processing.**

No information held.

- 3. A copy of all privacy impact assessments conducted by your organisation.**

No information held.

- 4. A copy of all data protection impact assessments conducted by your organisation.**

I can confirm that information is held and attached below. Section 31 and Section 40 (1) of the FOIA have been applied.

Section 31 is a Qualified exemption therefore a public interest test will be applied.

Section 40 (1) is an Absolute exemption and no public interest test has been applied.

5. A copy of all international transfer risk assessments conducted by your organisation.

No information held.

6. A recent copy of your organisation's data protection compliance assessment using the Information Commissioner's Office (ICO)'s accountability framework template. If you are using your own standards to monitor compliance with the Data Protection 2018, please provide me with copy of it.

No information held.

7. A copy of your organization's data protection policy.

This information is held and is available on our website. Section 21, Freedom of Information Act 2000 states there is no obligation to provide information that is available by other means. A link is provided to assist you.

[Data Protection | Office of the Police and Crime Commissioner North Wales \(northwales-pcc.gov.uk\)](https://www.northwales-pcc.gov.uk/Data-Protection)

8. A copy of your organization's subject access request policy, procedures, and processes, including any guidance material such as folder structure, naming conventions, and redaction guides.

This information is held and is available on our website. Section 21, Freedom of Information Act 2000 states there is no obligation to provide information that is available by other means. A link is provided to assist you

[Subject Access Policy and Procedure PUBLIC VERSION V1.0 APPROVED BY CEO 6 May 2021 \(northwales-pcc.gov.uk\)](https://www.northwales-pcc.gov.uk/Subject-Access-Policy-and-Procedure-PUBLIC-VERSION-V1.0-APPROVED-BY-CEO-6-May-2021)

9. A copy of your organisation's privacy notices, including but not limited to employees, customers, ministers, special advisors (SPADs), complaints, NEDS, visitors, and CCTV.

This information is held and is available on our website. Section 21, Freedom of Information Act 2000 states there is no obligation to provide information that is available by other means. A link is provided to assist you.

[Privacy Policy V2.0 \(northwales-pcc.gov.uk\)](https://www.northwales-pcc.gov.uk/Privacy-Policy-V2.0)

10. A copy of your organisation's due diligence questions for vendor management such as independent data controllers or processors.

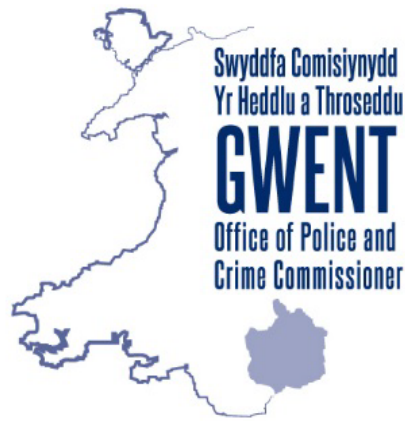
No information held.

I understand that under the Freedom of Information Act, you are required to respond within 20 working days. To stay within section 12 - cost limits, I suggest asking your Data Protection Officer for the information. If this is not possible, I suggest a search of your compliance platform and your Microsoft estate for the following search terms (not case sensitive):

- 1. "records of processing activity" OR "ropa"**
- 2. "legitimate interest assessment" OR "LIA"**
- 3. "privacy impact assessment" OR "privacy impact assessments" OR "PIA"**
- 4. "data protection impact assessment" OR "DPIA"**
- 5. "transfer risk assessment" AND "personal data"**
- 6. "accountability framework"**

I would prefer to receive the requested information in electronic format via email.

This information has been provided in response to a request under the Freedom of Information Act 2000 and is correct as at 13/07/2023



Office of the Police and Crime Commissioner for Gwent

Data Protection Impact Assessment Template

<u>Version Control</u>			
Version	Date	Amended By	Reason for Issue/Amendment

You should fill out the template at the start of any major project involving the use of personal data, or if you are making a significant change to an existing process. The final outcomes should be integrated back into your project plan.

This template should be completed using the Office of the Police and Crime Commissioner (OPCC) DPIA Guidance and the ICO DPIA Template Guidance documents

Step 1: Identify the need for a DPIA

Explain broadly what project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal.

Summarize why you identified the need for a DPIA.

Police and Crime Commissioners (PCCs) act as the voice of the public on policing and crime matters and they are responsible for setting the strategic direction for policing within their respective force areas.

They will from February 2020 be involved in the implementation of new complaints and conduct legislation arising from police integrity reforms 2019. A key element of the reforms will be to carry out independent reviews of police complaints where the Commissioner has been assessed as the relevant review body and the complainant formally requests a review in respect of the Force's handling of their complaint.

This will require a capacity to independently research and evaluate police complaints processes and procedures as they apply to individual cases and thereafter make recommendations to the relevant PCC who will then decide on the outcome of the review.

The PCCs for Dyfed Powys, Gwent and North Wales are seeking to appoint an independent service provider to conduct independent reviews on their behalf. This will be for a period of 12 months with the option of extending it for a further period of 12 months. The PCC for Dyfed Powys will complete his own Data Protection Impact Assessment and this Assessment only applies to the PCCs for Gwent and North Wales.

Changes to complaints processes has been designated as an area of 'high risk' by the Information Commissioner's Office (ICO) and one where a DPIA should be completed due to the potentially high risks to the individual as a result of this processing.

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/data-protection-impact-assessments-dpias/examples-of-processing-likely-to-result-in-high-risk/>

Step 2: Describe the processing

Describe the nature of the processing: how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or other way of describing data flows. What types of processing identified as likely high risk are involved?

The data required to conduct the reviews will have already been collected by the relevant Professional Standards Departments (PSD) and will have been retained on the Centurion complaints system. OPCCs have or will have access directly to the Centurion system to enable extraction of this information. For Gwent, access to Centurion is already provided by the force to support the undertaking of the dip sampling of complaints, which is a legal requirement placed on the PCC by the PRSRA 2011. [REDACTED]

The OPCCs will also have to agree a form template for publication to their website in order to allow members of the public to submit their review. This template will need to ensure that all relevant information is collected in order for the correct case to be identified on the Centurion and Egress systems.

The successful service provider must be able to demonstrate how it will meet the legal obligations of the Data Protection Act 2018 (the '2018 Act') and the EU General Data Protection Regulation ('GDPR') in terms of how it gathers, uses and protects data about workers, employees and contractors, both to manage its relationships with those individuals and in the course of conducting its business.

Describe the scope of the processing: what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

The nature of the data will be in relation to the review complaints against police officers and police staff (other than conduct). This will be undertaken by an independent service provider on behalf of the PCCs for, Gwent and North Wales. The amount of data collected will vary depending on the circumstances of each complaint case but will include personal and possibly sensitive information relating to areas such as discrimination in relation to protected characteristics and possibly medical information depending on the nature of the complaint. Based on historical data it is predicted that the volume of cases per force area will be as follows (although this is anticipated to increase going forward). –

North Wales – 51 (2017/18) and 43 (2018/19)

Gwent – 24 (2018)

Based on the above there could be anywhere between 67 and 75 reviews a year. That could increase for all areas as PCCs are likely to be seen as undertaking the reviews from an independent perspective whereas they are currently undertaken by the Head of PSD on behalf of the Chief Constable.

The independent service provider will only have access to or retain the information for the period of time required to conduct the review on behalf of the appropriate PCC. Any information will be

- collected and processed only for specified, explicit and legitimate purposes;

- Not be kept for longer than is necessary for the purposes for which it is processed; and
- Be processed securely.

All complaint information which is held on the Centurion system is subject to retention periods as set out by MOPI.

Describe the context of the processing: what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

PCCs will, from February 2020, be involved in the implementation of new complaints and conduct legislation arising from the Policing and Crime Act 2017. A key element of the reforms will be to carry out independent reviews of police complaints where the Commissioner has been assessed as the relevant review body and the complainant formally requests a review in respect of the Force's handling of their complaint.

Forces themselves currently carry out the reviews and they are aware that the responsibility for doing so will transfer to PCCs from 1 February 2020. This is a statutory responsibility. Forces will have the opportunity to comment on the accuracy of the complaint file and they may also be asked to clarify aspects for the independent service provider. The fact that Commissioners are conducting the reviews is intended to increase transparency and provide enhanced assurance that these matters are dealt with objectively and fairly by an impartial authority, there are no current issues of public concern that need to be considered. No review will be undertaken unless a request is made to do so from the original complainant. Information relating to these reviews is unlikely to contain information relating to children but may include requests from people who are vulnerable. There are no concerns relating to the processing of this information as it already takes place – responsibility will just be moving from PSDs to OPCCs.

The way in which data is transferred to the external service provider is a concern. OPCCs need to ensure this information is transferred as securely as possible to limit a data breach occurring. [REDACTED]

Each OPCC will update its privacy notice to reflect the changes being made.

Describe the purposes of the processing: what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing – for you, and more broadly?

The benefits are that PCCs will comply with the relevant police complaints legislation and the fact that Commissioners are conducting the reviews is intended to increase transparency and provide enhanced assurance that these matters are dealt with objectively and fairly by an impartial authority.

A person requesting a review of their complaint can be assured that it will be done independently and by a competent authority with full access to the relevant information.

Step 3: Consultation process

Consider how to consult with relevant stakeholders: describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

Engagement between PCCs and Forces has been ongoing for some time on the implementation of the new arrangements. As they are statutory regulations Commissioners and Forces must ensure the appropriate arrangements have been put in place. Any person requesting a review of their complaint will be advised of the relevant process to be followed which will include details of who to contact, together with their contact details and will be advised how their personal data will be used.

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures, in particular: what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

It is a statutory requirement for PCCs to carry out reviews of low level complaint cases. The transfer of this responsibility from forces to PCCs is set out in the Policing and Crime Act 2017 and in the Police (Conduct) Regulations 2020 which were approved by Parliament on 10th January 2020 and come into force on 1st February 2020. Therefore, the legal basis for processing is 'Legal Obligation'.

PCCs act as the voice of the public on policing and crime matters and they are responsible for setting the strategic direction for policing within their respective force areas.

A key element of the reforms will be to carry out independent reviews of police complaints where the Commissioner has been assessed as the relevant review body and the complainant formally requests a review in respect of the Force's handling of their complaint.

This will require a capacity to independently research and evaluate police complaints processes and procedures as they apply to individual cases and thereafter make recommendations to the relevant PCC who will then decide on the outcome of the review.

These arrangements will enable PCCs to carry out their statutory responsibilities. Commissioners may only act within the parameters of their statutory responsibilities and any attempt to go beyond them will be subject to internal controls which could involve the Monitoring Officer, Internal or external audit, the police and crime panel, public services ombudsman, data protection officers. In addition the Forces legal advisors will advise their respective Chief Constables if there is a suggestion of “function creep” and the Police Federation may also challenge such an approach.

Individuals will be advised of the changes via OPCC websites and amended privacy notices.

There will be no international transfer of information.

Step 5: Identify and assess risks

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
<p>1. The successful independent service provider will not have sufficient expertise to conduct the reviews effectively. If this occurs the person seeking a review of their complaint may not be reassured it has been done thoroughly and by a competent authority. That could result in a loss of confidence in the complaints system.</p> <p>2. The arrangements for enabling the independent service provider to securely access the complaints file must be robust. A failure to ensure this could result in the disclosure of personal information.</p>	<p>Remote, possible or probable</p> <p>Possible</p> <p>Possible</p>	<p>Minimal, significant or severe</p> <p>Significant</p> <p>Significant</p>	<p>Low, medium or high</p> <p>Medium</p> <p>Medium</p>

Step 6: Identify measures to reduce risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5				
Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk	Measure approved
1.	The evaluation of the quotations must be robust and it does include a section which seeks to assess the competency of the provider. Cost is not the single determining factor in awarding the contract and it will also include an evaluation of their competency. This will be kept under review throughout the contract and a full review into the service undertaken after 12-18months when a further decision will be made on continuation with an external provider or whether the function should be brought back in house.	Eliminated reduced accepted	Low medium high	Yes/no
2.	The evaluation of the quotations includes a criteria to describe the arrangements for ensuring access to a complaints file is done via secure arrangements and in compliance with the legal obligations of the Data Protection Act 2018 (the '2018 Act') and the EU General Data Protection Regulation ('GDPR'). This will be kept under review throughout the contract.	Reduced	Low	
		Reduced	Low	

Step 7: Sign off and record outcomes

Item	Name/date	Notes
Measures approved by:		Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:		If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:	██████ Gwent OPCC, 17/01/2020	DPO should advise on compliance, step 6 measures and whether processing can proceed
<p>Summary of DPO advice:</p> <p>The DPO's (Gwent and North Wales) have advised on areas where further detail could be included in the document, all of which were taken on board. Processing can proceed.</p>		
DPO advice accepted or overruled by:		If overruled, you must explain your reasons
Comments:		
Consultation responses reviewed by:		If your decision departs from individuals' views, you must explain your reasons
Comments:		
This DPIA will kept under review by:		The DPO should also review ongoing compliance with DPIA

Section 31(1)(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)

This Section 31 Law Enforcement exemption is a qualified and prejudice-based exemption and, as such I am required to apply the public interest test and evidence the harm in disclosure.

Harm:

In this particular case the requestor has requested information under the Freedom of Information (FOI) Act, relating to Data Protection Impact Assessments carried out by the organisation.

It has been established that the DPIA document held contains information on how data is processed and the release of that information is considered a risk to the organisation.

Public Interest Test:

Factors favouring disclosure

Disclosure of the information would provide awareness to the public of how information is protected whilst being processed.

Factors favouring non-disclosure

To release all the requested information would compromise the security of the organisation by providing technical details of how data is processed.

Balancing Test

After considering the advantages and disadvantages in disclosure it falls upon the Office of the Police and Crime Commissioner to conduct a balance test on the issues. The strongest arguments for release are public awareness need to be weighed against the strongest argument of the protection of our security processes.

This office will never disclose information that places the public at risk, unless the public interest in doing so is more powerful than that risk. In this case there would be no real community benefit by the release of the information which is the main focus in considering the public interest.

Therefore, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.