

Procedural Guidance

Freedom of Information Act 2000

Security Marking:

Not Protectively Marked

Please click on the hyperlink for related [Managing the Constabulary's information assets policy statements](#)

1. Introduction

- 1.1 Avon and Somerset Constabulary is committed to ensuring that Officers, staff and agents are conversant with and comply with the requirements of the [Freedom of Information Act 2000](#). (F.O.I Act).
- 1.2 The Freedom of Information Act places a responsibility on all public sector organisations to adopt an open and transparent approach in the completion of their functions.
- 1.3 Every officer, employee or agent of the Constabulary, has a duty under this Act to comply with its' requirements.

2. Scope of the Act

- 2.1 The Act applies to all public sector organisations.
- 2.2 Any information held in any recorded format (electronic, written, audio or visual) is potentially disclosable, exemptions permitting. This includes information held that was obtained from any source, including private companies.
- 2.3 The Act is retrospective, meaning that the age of the information held is irrelevant. If it is held by a public sector organisation, it is covered by the Act.
- 2.4 Anyone anywhere can make a written request for information held.
- 2.5 Requests must be complied with within the twenty working day deadline.

3. Offences under the Act

- 3.1 It is a criminal offence to alter or destroy information once a request has been received asking for that specific information.
- 3.2 Information will not be disclosed under the Act if to do so would lead to a breach of any other legislation, such as the [Data Protection Act 1998](#) or the [Human Rights Act 1998](#).

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4. Request processing

- 4.1 Any employee, in any location within the force, may receive a written request for information which will fall into two main categories:
- 4.1.1 Many requests for information will continue to be processed under the heading of 'Business as Usual' and will not be recognized as an FoI request.
The ACPO 'Business as Usual' philosophy can be viewed at Appendix 'A'.
- 4.1.2 Once a request for information has been recognized as falling under the FoI Act, it must be immediately forwarded to the Disclosure Unit, Corporate Information Management Department (CIM) at Force Headquarters in Portishead, who will process it as necessary. *The Force Procedural Flow Chart can be viewed at Appendix 'B'.*
- 4.2 Requests processed by the Disclosure Unit, CIMD are done so in conjunction with relevant Regional and National contacts to ensure consistency of approach throughout the Police Service.
- 4.3 In responding to requests, the National ACPO FoI Manual of Guidance is adhered to. A full copy of the manual of guidance can be viewed on the force website at [FoI Manual of Guidance](#)

5. Interaction with the Data Protection Act 1998 (DPA)

- 5.1 The FoI Act extended the provisions of the rights given under the Data Protection Act for persons to request information held by public sector organisations. It made several other specific changes to the Act but probably the most significant is that it extended the definition of what manual systems were included. Although there are some exemptions this change has meant that the Subject Access and now FoI requests cover virtually our entire manual filing systems. FoI enables any person in the world to request information from any public sector organisation, whether for personal or non-personal data. When a request is for personal information under FoI, it must still be dealt with in accordance with the provisions of the Data Protection Act 1998.
- 5.2 Further information on dealing with a request under the Data Protection Act 1998 can be found in the [Force procedural guide – Data Protection Act.](#)

6. Specific Roles & Responsibilities

6.1 **The Force Freedom of Information Officer.** The person responsible for ensuring the legislation is adhered to and requests for information are complied with in line with the requirements of the act and the Management of Police Information (MOPI).

Responsible to the Chief Constable through the Head of CIMD or an Assistant Chief Constable, to:

- ensure that guidance is available on all aspects of the Act;
- promote awareness through training, policy development, advice and guidance;
- implement, maintain and develop a web-based publication scheme;
- ensure that requests for information are complied with in line with the Act and within the twenty working day deadline;
- ensure that relevant exemptions to disclosure of information are applied where necessary;
- liaise on behalf of the Constabulary with the ACPO FoI Portfolio Group and the Information Commissioner.
- ensure that appeals received are processed as required under the Act;
- ensure disclosures are in accordance with other legislation, eg, Data Protection Act, Human Rights Act etc.

6.2 **All Mangers/Supervisors/Staff.** It is the responsibility of all employees to ensure that they possess a basic understanding of the act and the role they play in helping the Constabulary to comply with its' requirements. In the completion of their duties, all employees must also ensure that:

- they undertake their functions in accordance with MOPI;
- information is adequate and relevant;
- information is accurate and where necessary kept up to date;
- information is not retained for longer than is necessary in accordance with force procedures and for statutory requirements;

6.3 **Chief Information Officer (Head of CIMD).** The person who is responsible for having an overview of the whole process, in line with MOPI, ensuring that the force is meeting its' obligations and CIMD is staffed with appropriately trained and skilled resources.

7. Appeals Procedure

If, for any reason, an applicant is not satisfied with the response they receive, they have the right to appeal against the decision through the Constabulary. If not satisfied with the outcome of the appeal they then have the right to appeal direct to the Information Commissioner. If still not satisfied, the case can be taken to an Information Tribunal.

An appeal received in force will be processed by a senior manager or managers from within the CIM department, but independent of the original decision maker. Steps to be taken will include:

- viewing the original request;
- reviewing the original decision reached by the decision maker involved in the case;
- reviewing the information provided or withheld;
- reviewing the exemptions applied where applicable and ensuring they were applied correctly;
- liaising with the decision maker involved to establish why and how they reached their decision;
- referring to the National ACPO FoI Referral Team for advice and guidance where necessary;
- reach an informed decision based on all the facts to hand (in line with the legislation and in conjunction with all interested parties) and respond to the applicant as appropriate.

If an appeal is received via the Information Commissioner, this will be addressed by the Head of CIMD and all facts in relation to the case provided to the Commissioner as directed.

8. Tactics

8.1 There are no tactical issues relating to this procedural guidance.

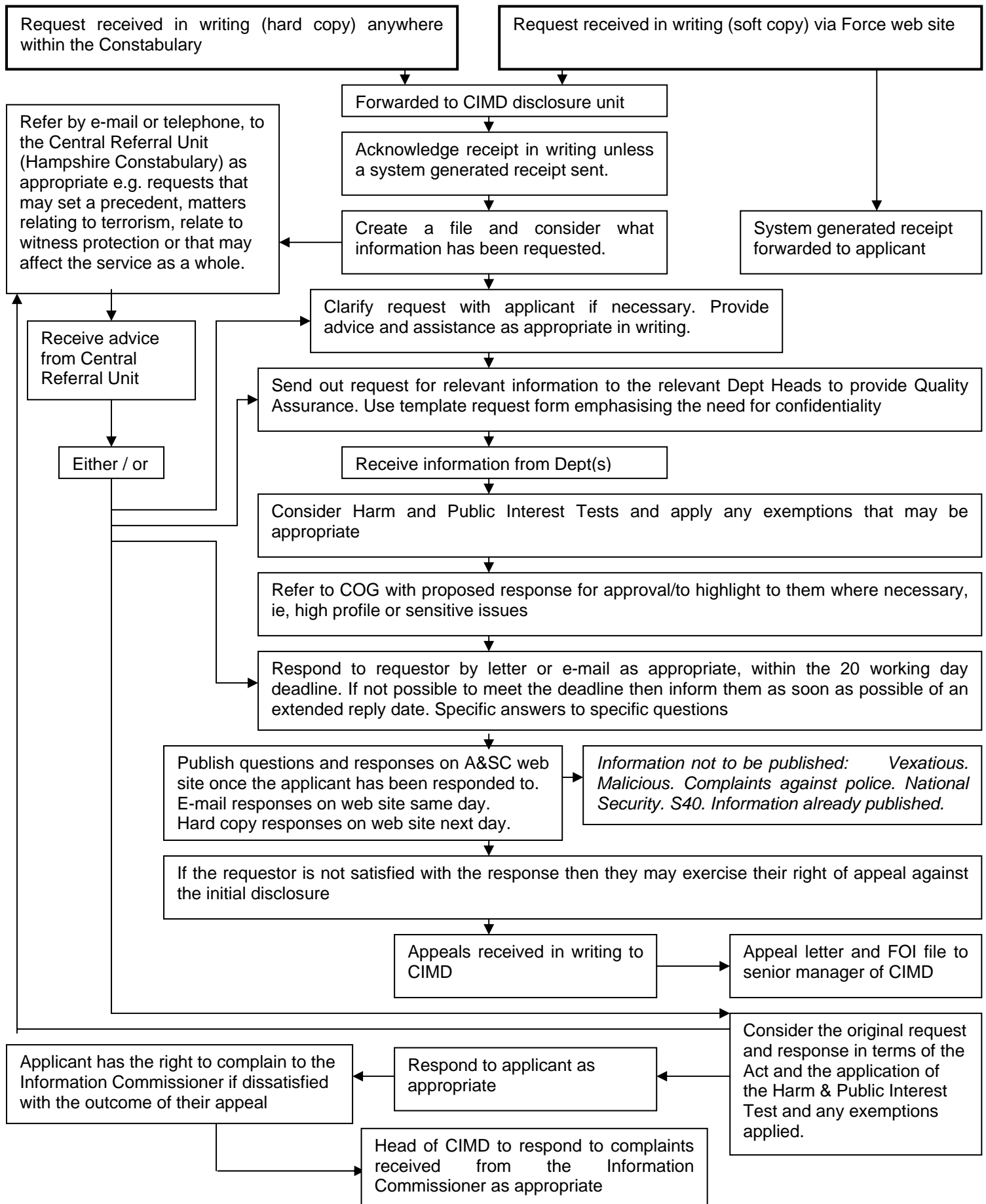
Procedural Guidance Information	
Procedural Guidance Owner:	Head of Corporate Information Management
Reviewed for Human Rights Compliance:	12 th January 2010 POLI /13
Effective Commencement Date:	18-11-10
Last Review Completed:	April 2010
Next Review Due:	September 2013

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<p>ACPO 'Business Usual' Philosophy</p>	<p>As Under ACPO Guidance, the following requests for information should be handled locally within business units in accordance with existing business processes:</p> <ul style="list-style-type: none"> • Information requested by Local Authorities and other statutory agencies in line with Crime and Disorder Protocols and the functions of multi-agency public protection panels (all other LA/Councillor Enquiries through FOI). • Information requested by other Public Authorities (who do not stipulate the request is under the FOIA) in relation to information sharing on individuals or law enforcement activities. • Information requested from private companies who are providing out-sourced services to Forces. • Provision of Court Welfare Reports to Courts for Child access Enquiries. • Data Protection Subject Access (Where no 3rd Party info involved). • Probation Service Welfare Reports/Supply of Pre-cons to Probation Service (inc. Victim Personal Statement Scheme). • RTI Disclosures to Solicitors, Insurance Companies and Loss Adjusters. • Information Supplied to Insurance Companies and Loss Adjusters under the ACPO/ABI Memorandum of Understanding. • Information requested by the Passport Agency in line with the Memorandum of Understanding. • Third Party Prosecutions (where pre-cons are supplied) by statutory agencies such as Inland Revenue, Benefits Agency or Customs and Excise etc. • Prior-court Disclosures (Criminal Justice Act). • Disclosure to CPS Lawyers where it involves prospective, ongoing or previous prosecutions. • Information requested by Courts in relation to ongoing prosecutions (other than CJA go through Force Solicitors). • Information requested by Coroner's Courts. • CRB Vetting Disclosures. • Disclosures to Victim Support Service (New Agreement). • Requests from UK Police Forces in the process of Crime investigation or passing of criminal intelligence. • Requests from Overseas Police Forces (through Force Intelligence Bureau -Interpol) or SB. • Requests from the Fire Service under Local Agreements for Joint Investigations of complaints of Arson. • CICA Requests (Through Crime Managers). • Request from External Organisations for Personnel References. • Requests from Occupation Health (where external organisation) about employees working or Force Policies. • Requests from Trade Unions in relation to complaints investigation. • Media Enquiries that relate to requests for press lines for ongoing and current investigations • Requests for recruitment information. • Requests for Force pre-printed leaflets • Requests about Special Service Agreements from sports stadia or other public entertainment venues. • Requests for information made by Criminal Cases Review Commission (CCRC).
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Freedom of Information Act 2000 - Procedure Flow Chart



COG (incl Directors of Finance and Human Resources) and Head of Corporate Communications to receive details of requests received, including applicant's names and contact details.