



Freedom of Information Requests

The transparency and integrity of North Yorkshire Police, and of the Office of the Police and Crime Commissioner, continues to be of great importance to the Police and Crime Commissioner, as it ensures that the public understand the service with which they are being provided.

The Civil Disclosure Unit (CDU) provides a vital function, as part of this, in answering the public's requests for information, and a lot of work has gone in to improving the capability and performance of the unit. Likewise, the OPCC seeks to publish as much information as it can in a timely manner.

There is always room for improvement, and the CDU is currently reviewing its improvement action plan to ensure that the service it provides continues to advance.

Performance

The Information Commissioner's Office (ICO) has set a compliance target for FOI responses within 20 days of 90%. This was updated from 85% in April 2017.

Compliance had been under 70% in 2015, and an action plan was developed with the Police Central Referral Unit and put in place to improve performance. This has seen improved processes and understanding amongst other departments in order to bring up compliance. At the end of 2016/17 the ICO compliance target was close to being met and now that this has been increased the action plan is being reviewed to identify where further improvement can be made.

The number of FOIs continues to increase year on year:

- 2014/15 – 1046
- 2015/16 – 1264 (20% increase)
- 16/17 – 1280
- 17/18 – estimated approx. 1350

The below tables detail the FOI performance for the two data controllers for this financial year.

FOI Stats FY2017-18 – Point in time 23/01/2018					
	Received	Total Closed/ Completed	Outstanding	Total Non-Compliant	Currently Non- Compliant & Not complete
NYP	1076	950	126	222	47
PCC	52	44	8	9	1

FOI Stats FY2017-18 – Point in time 23/01/2018			
	*Average Response Time (work days)	**Compliance %	Info Rights Tribunal
NYP	19	79.37%	1
PCC	23	82.69%	3

*There are two responses to which it took over 100 days to respond. If these were excluded from the results then the average response time would be 19 work days.

**Compliance includes those due in the future.

Data for the period September 2015 – September 2017 as requested at the last Panel meeting can be found in Appendix 1.

Improvement plan

The CDU sits within Joint Corporate Legal Services, reporting to the Chief Executive Officer through the Director of Evolve Legal Services. The PCC conducts scrutiny of their performance through her Chief Executive Officer and through reports to her Executive Board.

The PCC has been closely involved in the improvement of the CDU's performance through the direct involvement of the DPCC (previously as Chief of Staff) in developing, and reviewing the CDU's progress against, its improvement plan (see Appendix 2). The plan was put in place when, in 2015, compliance became unacceptable, being consistently below 70%. This plan was developed with the OPCC and advice was taken from the national Central Referral Unit. The plan was put in place aiming to bring compliance up to 85%, the then ICO compliance rate. This also aimed to improve awareness of the FOI Act and process amongst departments to ensure that information was returned in a timely manner.

As part of this the FOI process and policy was reviewed. The policy was updated to make departmental heads responsible for the timely return of information. This was done in part because one of the most significant reasons for non-compliance is delayed response from other departments. SPOCs in each department are now responsible for prioritising the provision of information and there is mandatory training for all new starters on data protection and FOIs.

The organisation also promotes a 'transparency by design' approach, proactively putting publication strategies in place for high profile matters to enable the smooth flow of information and ensure publication as soon as it is possible.

The action plan also looked to deal with a backlog of requests. The backlog has been reduced, though staff absence or particularly time-consuming requests can set this back.

It should also be noted that some non-compliance is unavoidable. Complex and/or sensitive requests, especially if there is more than one question in the FOI or if questions are interrelated, can take time. FOIs with multiple questions may require individual questions to be sent internally to different departments which may then impact on finalising the response. For some FOIs it is necessary to correspond with third parties affected by the FOI which can cause significant delays.

As the ICO has now increased the target compliance to 90%, the action plan is currently under review to identify where further improvement can be made.

Future challenges

The new Data Protection reforms (including GDPR) which come into force on 25 May 2018, will generate new challenges as the CDU will need to navigate responding to the new requests that come in under these new regulations, and monitor data protection compliance across the organisation.

The timescale for responding to Subject Access Requests (SAR) is also reducing which is likely to add pressure given the much larger amounts of information that need to be collated. There will also be enhanced data subject rights and mandatory breach reporting which will increase workloads within the department. This is in the context of the ICO also raising the compliance target for FOIs.

Staffing

The Civil Disclosure Unit has five FTE Legal Officers all of whom are multi-skilled across all areas of the Unit's work, and three of whom respond to FOIs – 2 fulltime and 1 part-time. These Legal Officers also deal with Subject Access Requests and general Data Protection work.

Disclosure log

NYP and the OPCC publish all FOI responses. The organisation does not have a policy regarding this. NYP seeks to do so in a regular and timely manner and to ensure that the log is complete by the end of the financial year. The OPCC aims to ensure that its log is up to date every quarter, though this was not managed over Q2 and 3 2017/18 because of changes within the OPCC.

Appendix 1

FOI Performance Statistics 01/09/15-31/08/17								
How many FOI requests have been received?	Sept 2015 - Mar 2016		Apr 2016 - Mar 2017		April 2017 - Aug 2017		TOTAL Sept 2015-Aug 2017	
	Number Received	%	Number Received	%	Number Received	%	Total Number Received	%
NYP	778	94%	1286	96%	559	96%	2623	96%
PCC	47	6%	51	4%	21	4%	119	4%
Total	825		1337		580		2742	
How many were responded to within the 20 working day statutory requirements?	Sept 2015 - Mar 2016		Apr 2016 - Mar 2017		April 2017 - Aug 2017		TOTAL Sept 2015-Aug 2017	
	Number Received	% of total compliant	Number Received	% of total compliant	Number Received	% of total compliant	Total Number Received	% of total compliant
NYP	543	70%	1023	80%	434	78%	2000	76%
PCC	45	96%	38	74%	16	76%	99	83%
Total	588		1061		450		2099	
How many were not responded to within the 20 working day statutory requirements?	Sept 2015 - Mar 2016		Apr 2016 - Mar 2017		April 2017 - Aug 2017		TOTAL Sept 2015-Aug 2017	
	Number Received	% of total non-compliant	Number Received	% of total non-compliant	Number Received	% of total non-compliant	Total Number Received	% of total non-compliant
NYP	235	30%	263	20%	125	22%	623	24%
PCC	2	4%	13	26%	5	24%	20	17%
Total	237		276		130		643	
How many FOIs were turned down?	This information is not easily retrievable as we do not categorise by Exempted/Invalid requests etc.							
How many FOIs were internally reviewed as they were not satisfied with the original results provided or the fact it was turned down?	Sept 2015 - Mar 2016	Apr 2016 - Mar 2017	April 2017 - Aug 2017	TOTAL Sept 2015-Aug 2017				
	Number Received	Number Received	Number Received	Total Number Received				
NYP	35	34	12	81				
PCC	2	10	4	16				
Total	37	44	16	97				
How many FOIs were referred/complaints were made to the Information Commissioners Office?	Sept 2015- Mar 16	Apr 2016 - Mar 17	April 2017 - Aug 2017	TOTAL Sept 2015-Aug 2017				
	Number Received	Number Received	Number Received	Total Number Received				
NYP	0	10	1	11				
PCC	0	3	0	3				
Total	0	13	1	14				

Appendix 2: Action Plan

1. **New FOI Process** - Implement a new streamlined process largely based on the model recommended by CRU (outlined below) from the 1st October 2016. The implementation plan for this is also outlined below.
2. **IAB ownership of FOI** - Add FOI as a standing agenda item at IAB for verbal update by Police Lawyer (Civil Disclosure) – to include performance information and allow SIRO and the board to be briefed about any problems in information gathering and any high profile cases/organisational issues affecting the FOI/DPA process.
3. **FOI policy** – Policy to be amended so it essentially says that NYP will comply with the APP
4. **FOI procedure** – Draft a new supplementary procedure which sets out the new process (outlined below).
5. **FOI Champion** - Ensure an FOI champion is in place within NYP (suggest this is the SIRO) who can push this from the top down. If this is SIRO this will link to the IAB updates.
6. **FOI Officer** - The Police Lawyer (Civil Disclosure) to act as the NYP FOI Officer. If information owners or stakeholders have problems then these can be raised with the FOI Officer, who will have a direct route in to the FOI Champion (SIRO). Link to APP description of FOI officer.
7. **Empower FOI decision makers** - The Legal Officers should be empowered to make decisions without disproportionate scrutiny (decisions to be QA'd by the FOI officer where necessary & escalated to HOLS by exception) and should conduct the triage of all new requests.
8. **Transparency by design** - Implement “transparency by design” within NYP where the FOI team are consulted at the outset about potentially high profile issues so advice can be given about publication strategies – this will require education of COT, heads of department and project staff.
9. **FOI training** - implement FOI NCALT across the force as a mandatory training item for all existing and new staff and officers. Consideration for NCALTS to be done as team briefings.
10. **Internal comms** – to support the implementation of the new training, policy and process.
11. **FOI backlog** – recognise that process changes alone will not clear the backlog and that if the new process is to be successful it is best to start with as few outdated requests as possible. 20 days before “go live” all applicants for requests that are overdue by more than 2 weeks should be contacted and asked to confirm whether they still require the information, with it being made clear if they do not respond within 20 days their request will be treated as withdrawn.
12. **Review** – review compliance figures after 6 and 12 months to establish progress. The aim should be set for NYP to achieve 85% compliance within 1 year of the implementation of the new process.
13. **OPCC** – personal details of force FOI applicants should not be shared with the OPCC as this is a breach of data protection. The only exception to this is where the applicant has made the same request to both organisations.

Suggested new process

1. **New Requests** - new requests received into the civil disclosure inbox and transferred into FOI triage sub-folder within the inbox, but not logged or acknowledged.

2. **Triage** - On a daily rota basis, a Legal Officer (Civil Disclosure) will triage all requests, considering the following:
 - Can a link be provided to a previous response and/or published material?
 - Can the request be diverted into the SAR process/s40?
 - Is there a preferred option for dealing with the request outside FOI?
 - Can we contact the applicant by telephone to clarify what they want and why – and suggest better approach to the request?
 - Is the request excess cost and can we respond immediately?
 - Any remaining requests can be logged and acknowledged & any CRU referrals completed.
3. **Engagement with Information Owners** - On a daily basis, for requests that are to remain in the FOI process, an email should be sent by the triager to all potential identified information owners, for them to confirm whether recorded information is held and how long it would take to retrieve it. A response will be requested within 3 days (flexible on case by case basis, e.g. if we know performance are busy etc), together with a warning about non-response. Daily informal discussions between FOI staff within civil disclosure to identify information owners and stakeholders. Requests where information cannot be retrieved within cost, or where information is not held, can be closed at this stage.
4. **Information Retrieval and Comms** - Where information is held and a disclosure is possible, the information and details of any harm will be requested from the information owner, with a timescale set for them to provide it and warnings about failure to provide. At this stage, requests will also be sent to identified information stakeholders (including comms), with them given the same timescale to provide any comments/context/harm.
5. **Decision Making & QA** – once all information is received, the Legal Officer (Civil Disclosure) will draft a response and pass appropriate requests to the Police Lawyer (Civil Disclosure) to QA (check legally compliant and harm considered), which should be done on an almost daily basis (in line with CLPD advice). Police Lawyer (Civil Disclosure) to seek supervision on complex requests where necessary from Force Solicitor/Deputy Force Solicitor.

Inputs into FOI Team & Awareness of Responses

Organisational awareness - FOI team, or possibly Police Lawyer (Civil Disclosure) via SMT, will receive a weekly briefing from the Force Solicitor/Deputy Solicitor about organisational issues to be aware of. Potential publication schemes to be discussed and contact made with relevant parties. Complex cases to be discussed if needed.

Performance and Information Management – a Legal Officer (Civil Disclosure), Performance Researcher and Head of Information Management will meet on a weekly basis to discuss any relevant issues and requests that the FOI team require input on, or that the performance team have any issues with. Head of Information Management to provide guidance about potential information owners if not identified during the triage process.

Awareness of responses – A weekly list of all responses sent out will be sent to the staff office, Head of Legal Services and the comms team.