

Freedom of Information Policy

November 2023



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1. Introduction

The Police Investigations & Review Commissioner (PIRC) is required by The Freedom of Information (Scotland) Act 2002 (“FOISA”) to provide the public with a legal right to access any recorded information held by the PIRC subject to certain exemptions. This policy is designed to provide a policy framework through which the PIRC can embrace a culture of openness and accountability in line with the provisions and requirements of FOISA.

The PIRC holds information relating to operational cases within the Review and Investigations Teams, as well as non-case related material such as procurement, property, accounts, finance and employee records. Information provides a verifiable audit of activity which can be used to assess performance, inform future decisions and ensure the accountability of the organisation.

The purpose of PIRC’s Freedom of Information Policy is to set out the arrangements for the processing of requests made for information to PIRC.

This policy equally applies to the processing of information requests under the Environmental Information (Scotland) Regulations 2004 (EIRs), however it is extremely rare for the PIRC to receive a request to which this regime must be applied.

As a named authority within the Scottish Biometrics Commissioner Act 2020, the PIRC is obliged to process this type of information in accordance with the Commissioner’s code of conduct. Therefore any information of this nature processed in accordance with the PIRC’s role must be held in accordance with the Records Management Policy.

2. Legal Background

The Freedom of Information (Scotland) Act 2002 provides a general legal right of access for anyone to the information held by all public authorities, subject to certain exclusions.

When creating this Policy, the PIRC has taken full regard of the FOISA and its principles to ensure compliance at all times. FOISA has provisions entitling individuals to request information that is held by the PIRC.

Should information be requested under FOISA and a decision is taken to withhold the information by the PIRC, the information should not be destroyed until the time allowed for the requestor to request a review and appeal has lapsed, irrespective of the fact that the information may become due for destruction during that time.

The PIRC has nominated the Information Officer as Freedom of Information Officer, overseen by the Accountable Officer who will ensure that the Freedom of Information Policy is appropriately applied and that all data held by the PIRC is done so in compliance with the Act, and the Information Officer is responsible on a daily basis for the processing of requests made to the PIRC, assisted by the Information Coordinator

3. Scope

All information received or generated by the PIRC will be subject to the conditions contained within this policy. For the purposes of this policy, data is classified as either case related or non-case related data.

This Policy applies to all staff in relation to:

- the records they create (whether electronic or manual), received or maintained on behalf of the PIRC
- all recorded information held by the PIRC regardless of format, including telephone recordings.
- identification of Freedom of Information requests made in any format to the PIRC, and ensuring that these are passed onto the relevant staff for action.

4. Policy Statement

The Freedom of Information (Scotland) Act 2002 was introduced by the Scottish Parliament to ensure that people have the right to access information held by Scottish public authorities. The Act states that any person can receive information that they request from a public authority, subject to certain exemptions such as protection of personal data and commercial interests, or national security. It came into force on 1st January 2005.

People now have the right to information that may previously have been withheld by public authorities. If their request for information is refused or ignored, they have the right to ask the public authority to review their decision. If they are still unhappy with their response they have the right to appeal to the Scottish Information Commissioner, who may investigate their case. The Commissioner has powers to force the public authority to release any information that is not exempt under the Act.

This Policy represents a statement of intent that will:

- Describe our framework for the management of all FOISA requests in full compliance with the legislation.
- Provide all staff with clear guidelines and procedures to implement the PIRC's FOISA Policy.

5. Roles and Responsibilities

All employees must ensure that, in carrying out their duties, the PIRC is able to comply with its obligations under the FOISA.

Employees are reminded that the FOISA does not just apply to records held relating to our employees, but also, for example, to enquirers/applicants/investigations and supplier files and records. Information stored on enquirers/applicants/investigations should be reviewed regularly to ensure it is still required to be held. All documents, whether handwritten or stored in emails (current or deleted) are potentially disclosable in the event of a FOISA request.

Dealing with requests

The PIRC is obligated under the Act to provide advice and assistance to help people make requests under the FOISA. The PIRC aims to respond to all requests promptly and at any rate, within the statutory response period of 20 working days following receipt of a valid request.

The PIRC aims to operate in an open and transparent manner and to publish a wide range of information, both proactively and in response to requests under the FOISA; however exemptions will be applied where applicable to ensure that information which is not suitable for publication is protected.

Written requests for information received by the PIRC via post, email or other recordable

means will be treated as requests under the FOISA in cases where the information is not already publicly available or routinely disclosed on request. There is no need for requests to indicate they are made under the FOISA; however applicants making requests must provide their real name and an address for correspondence (email or postal). If a request is unclear, we will ask for clarification as soon as we can to enable us to proceed with considering the request.

The PIRC reserves the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. This limit is currently £600, which equates to 40 hours' work at a statutory rate of £15 per hour. Where we estimate that complying with a request will take more than 20 hours of staff time, we will try to assist applicants to make refined requests which are more manageable.

6. Procedure

Upon receiving a request for information, employees should contact the Information Officer (or Information Coordinator) who will determine the validity of the request and determine if Freedom of information is the correct regime to process the request. Failure to identify a request for information timeously could result in the PIRC not meeting the deadline for the provision of information, as the 20-working day deadline begins the day following receipt of the request.

All information identified as fitting within the scope of a valid request for information under the Freedom of Information act must be provided to the Information Officer/Information Coordinator to determine if we hold this and if so, identify any exemptions which will apply to withholding information, and to preserve a record of the stages of processing a request, should the applicant be unhappy and make an application for appeal to the SIC, who in turn will request a copy of the information we withheld.

In some instances, we may not hold the information requested, however, to preserve comprehensive records of any searches carried out, written confirmation of this will be requested from the senior manager of the relevant team and saved with the original request.

For some requests, it may be necessary to refer to the Head of Legal Services (HoLS) for advice and guidance on our response. HoLS may see responses ahead of issue.

The Information Officer (or Information Coordinator) may discuss in more detail the business reasons for the PIRC holding the requested information with the appropriate member of staff to ensure the correct response to the applicant is prepared.

The Information Officer or Information Coordinator will prepare a response for the applicant, applying relevant exemptions to any information withheld, and provide this to the senior manager for the relevant team, along with any information which is to be provided.

The Information Officer (or Information Coordinator) will confirm the PIRC response with the senior staff prior to issuing this to the applicant. As the timescale for responding to applicants is rigid and closely scrutinised, responses are prepared some time ahead to the deadline, where possible, with approval for a response requiring urgent attention when supplied. A copy of our response will be provide to Comms prior to issue to ensure they are cited on any information being release should it attract media attention. In addition a redacted copy of the response will be published on our web site, but only in circumstances where the information is provide in full.

In circumstances where the applicant is unhappy with the response provided, they have the option of requesting an internal review. This must be undertaken by staff who have not made the decision to release (or withhold) information within the original response. In most circumstances the Information Coordinator will prepare routine responses to requests to allow the Information Officer to process any potential request for a review.

In the prolonged absence of the Information Officer, the Information Coordinator will lead on managing requests, with support and guidance from the Head of Corporate Services and Head of Legal Services where necessary. The Procedure for Information Practitioners outlines additional resources which is available to ensure information requests are managed timeously. This allows for requests to be processed within statutory timescales and provides the PIRC with resilience in delivering this mandatory function.

7. Administration of the Policy

This policy is supported by recognised external FOISA procedures, which set out how this policy is applied in practice. In addition the retention of the information is supported by the Records Management Policy which details retention and destruction timescales.. This policy will be made available both on the PIRC website and on the PIRC intranet.

8. Non Compliance

Anyone who does not believe that the principles set out in this Freedom of Information policy have been correctly applied may appeal to the Head of Corporate Services who will investigate and respond in writing within 20 days.

Non compliance of FOISA can result in an intervention from the Scottish Information Commissioner which could lead to a loss of confidence in the PIRC. More serious infringements can include breaching the Data Protection Act through over disclosure.

9. Implementation, Monitoring and Review of this Policy

This Policy is a formal PIRC policy and will be reviewed by the PIRC Senior Management Team on an annual basis.

10. Benchmarks Used in Policy Formation

- Previous policy

Version control data

Title:	Freedom of Information Policy
Version Number:	Version 4.0
Publish Internet/Pulse	Both
Summary of last modification:	General check and new agreed template applied
Date of Approval:	October 2023
Next review date:	October 2025

APPENDIX 1

Procedures on Handing Requests

1. Request must be received in recordable format by email/letter/voicemail/social media
2. Request forwarded to the information requests mailbox (informationrequests@pirc.gov.scot), accessed daily by Information Officer (IO) and Information Coordinator (IC), who will
 - a. Log request onto FOI spreadsheet to determine required response date
 - b. Acknowledgement letter sent by same format as request made, eg email, post, providing required response date
 - c. Inform key/relevant staff of request
 - d. Ensure the Head of Corporate Services and Head of Legal Services are aware of new complex of noteworthy requests and agree the most appropriate response.
 - e. Obtain information from appropriate internal source(s)
3. The Information Officer/Information Coordinator will:
 - a. Prepare a draft response
 - b. Issue the draft letter to the relevant Head of Department/Team, Head of Legal Services for approval and the Comms Team for information.
 - c. Where the response is prepared by the IC, and is relatively straightforward, the IO will approve a request for issue.
 - d. Issue letter to include details of review process and Scottish Information Commissioner
 - e. Retain copies of all materials including clean/redacted copies, whether released or not
 - f. Update FOI spreadsheet with outcome
 - g. Provide Comms with a redacted copy of the response for publishing on our web site, alternatively the IC will publish the response, after approval from the Head of Corporate Services.
4. In the absence of the Information Officer, the Information Coordinator or another qualified PIRC Information Practitioner will handle some or all of the request following the above procedure.

APPENDIX 2

FOISA Process Flowchart

