


Open information

Police forces are now legally required to respond to specific requests for information from thousands of people since the Freedom of Information Act came into force at the beginning of this year. Phil Chamberlain reports on how the service is responding.

 Police forces believe their preparations for the new Freedom of Information Act are paying off – but it will take several months before a proper idea of its impact becomes clear.

On January 1, the public were given the right of access to files held by more than 100,000 public bodies.

Ian Readhead, deputy chief constable of Hampshire Constabulary and ACPO lead on freedom of information, said the police were well prepared for a potential deluge in requests, having spent two years and trained 300 people to help implement the act.

'Chief police officers have taken the moral high ground and will publish, from the outset, their annual expenses, an approach which has been recognised as best practice by other public agencies,' said Mr Readhead.

The FOIA (Freedom of Information Act) establishes a right of access to information from a range of public bodies from the

cabinet office to parish councils and your GP round the corner to the military base up the road, the emphasis is on opening up files unless there is a good reason not to.

Every organisation must have a publication scheme listing of the different types of information it can release. The onus is on helping people find the file they want.

Anyone can request the information and, if refused, have to be told why. They can appeal to the Information Commissioner who has the power to order a file's release. Although the list of bodies covered is long there are exceptions. Police forces and police authorities are covered; the National Criminal Intelligence Service is exempt as are the proceedings of courts and tribunals.

ACPO and the Federation are not covered but prisons are. Private firms are not covered unless they carry out public functions. So it is likely that the Information Commissioner will be asked to look at companies such



as Group 4 who escort prisoners.

One key area of exemption on releasing information is if it "would or would be likely to prejudice" the purpose of law enforcement.

An organisation can even refuse to either confirm or deny whether the information even exists if it could prejudice an investigation. For instance, a person could ask to see surveillance records of themselves and merely confirming their existence would show he was being kept an eye on.

Classes of information which

do not have to be released include those covering:

- The prevention or detection of crime. This includes not only the procedures but also the crime prevention measures such as the physical security of buildings, or the security of IT systems
- Apprehension or prosecution of offenders
- Administration of justice such as the appointment of magistrates and judges and the development of sentencing policies

- Information about the physical security of entry points into the UK and the issuing and approval of visas, work permits etc and the processing of asylum applications
- Security and good order of prisons and other institutions. This includes both external security and internal disciplinary matters
- Information which could breach lawyer/client confidentiality

These are not absolute exemptions and can be challenged under a public interest test.

Marcus Turle, from Field Fisher Waterhouse, is a leading legal expert on the Act and editor of the Freedom of Information Journal. He does not expect the Act to interrupt on-going investigations; instead he believes people will be interested in the same things they are with local authorities – performance, cost and value for money.

And once the initial interest dies down the public may not be the major users of the Act.

‘Our Act is similar to the ones in Australia, New Zealand and Canada and there, business is the most frequent user.’

With the Act still in its infancy, though, it is not going to be known for another few months what the rulings are on any requests which have been refused. As custom and practice evolves so the scope and limits of the Act will become clear.

‘I think people will learn what is and is not open and they will fairly closely concentrate on the borderline areas,’ said Mr Turle.

Steady stream

So far the bodies attracting the most requests have been central Government and local authorities. The police have not been as busy as they thought.

Greater Manchester Police said that it had had 16 requests in the first three weeks, fewer than it expected. In Northamptonshire they were dealing with 15 requests. The relatively low-profile Ministry of Defence Police has had just three.

Karen Thompson, from the MoDP unit which handles information requests said: ‘We’ve not



been overwhelmed and speaking to colleagues in Suffolk and Cambridge they said busy but manageable.

‘It seems there are a lot of requests which are about personal data and people who have not had luck under the DPA are converting them into FOIA requests.’

Grainne Smithson, information compliance manager at Sussex Police, is busier, handling 30 requests. They have had lots from journalists as well as members of the public and people doing research. The requests cover areas which are in the news at the moment such as speed cameras.

She said that Sussex Police put in place an extensive training programme so officers in every department were up to speed on what the Act requires. There has also been awareness training for all staff through posters and articles in the in-house magazine.

More training is planned both as a refresher and as the Act develops but at the moment the requests are often from journalists testing the system to people who are after personal information and think the FOIA will help them.

‘There has been a blip in Data Protection Act requests because people suddenly think they’ve got access to their own information which they already had under the DPA,’ said Grainne.

She added that fears about officer’s personal information or case files being released were unfounded as the Act had tight rules on these.

‘We tried to make it very clear to officers and we have pointed out the distinction between the DPA and the FOIA,’ she said.

‘We have always been very careful with the DPA as far as we can to protect officers and that approach will continue under the FOIA.’

Setting standards

The busiest force has been Hampshire but that is because they have been setting the standards for other forces.

Since the beginning of the year Hampshire has received 48 requests for information. They have actually been complying with the spirit of the Act since last February and so have already dealt with 27 requests.

Rebecca Shepherd, Hampshire’s freedom of information officer, said: ‘In the beginning we had reasonably straightforward requests but now they are getting quite complex and in-depth.’

Like Sussex, they have seen a rise in people filing what are actually Data Protection Act requests as well as requests from their own members of staff.

‘That has given us a good idea of what people’s concerns are,’ she said.

‘This legislation is evolving all the time so the public interest tests, for instance, may be different in a year’s time.

‘We are looking forward to the challenge.’

Hampshire is running a co-

ordinating centre for requests received by any force which are deemed particularly sensitive, such as on surveillance, sex offenders or criminal records.

It means a service-wide response can be made to any requests which are deemed to have a national impact and be high risk.

Well prepared

Katherine Gundersen, research officer at the Campaign for Freedom of Information (CFOI), said: ‘The police are recognised as being well prepared and better than some sectors.

‘If you look at their publication scheme some are doing more than they have to, for instance publishing the expenses of chief constables.

‘ACPO have taken a decision to be positive about putting information in the public domain and that is welcome.’

Maurice Frankel, director of the CFOI, says public bodies should welcome the opportunity to better engage residents.

‘Many requests will be prompted by a suspicion - perhaps unjustified - of some shortcoming,’ he says. ‘An authority which fails to respond openly can only reinforce the belief that something disreputable is being hidden. But an authority which goes out of its way to answer properly, even if the news is not all good, has a real chance of persuading people that it is trying to address, not cover up, its problems.’

However, the new spirit of openness is not without its little hiccups. When this reporter rang South Yorkshire Police’s freedom of information department to see how many FOI requests they have dealt with, I was told I would have to submit my own FOI request as it was not appropriate to release that information.

Copies of the guidance on the FOIA for the police is available via the ACPO intranet.

Information Commissioner:
www.
informationcommissioner.gov.uk

Department of Constitutional Affairs’ guide to the act:
www.foi.gov.uk