

FREEDOM OF INFORMATION: ANNUAL REPORT 2011

BACKGROUND

2. The Freedom of Information Act 2000 was enacted on 1 January 2005 and applies to all public bodies including UK police forces. The Act places a duty on the Force to provide information held by it, on request, within 20 working days. There are 23 exemptions that can be applied to negate that duty provided there is legal justification for doing so.
3. Information of general public interest is published on the Force internet site. Known as the 'Publication Scheme' there is a legal obligation to maintain the site and the information thereon. The Information Commissioner checks compliance with the Act by way of 'advice' and 'decision notices'. The Commissioner has powers to ensure compliance; failure to comply with a decision notice can be held as contempt of court.
4. The Force employs one full time Freedom of Information Officer who is the principle decision maker, responsible for servicing all requests and the upkeep of the 'Publication Scheme'. In addition one full time FOI Compliance Officer has been employed since 1st October 2008 to assist with the significant increase in requests since 2007 and the maintenance of the publication scheme.

CURRENT STATUS

5. The number of requests has eased slightly after significant rises in previous years from 648 in 2009/2010 to 592 in 2010/2011, a decrease of 8.6%. However there are clear indications that the numbers of requests will continue to rise over the coming months. This trend is reflected nationally and is detailed in Appendix 1
6. The types of request continue to increase in complexity and require careful and detailed analysis to minimise the risk to the Constabulary's reputation and to ensure the correct application of exemptions. The media are significant users of the Act, accounting for 39.5% of requests. Requests impact on all areas of business. They can be time consuming and have resource implications for department heads to manage.
7. The Association of Chief Police Officers Central Referral Unit, (ACPO/CRU), continue to play an important role in advising all forces on high risk disclosures and national requests, (i.e. requests from an

organisation to all forces, usually from the media.) MP's and their researchers are frequent users of the Act to obtain information for a variety of projects. Requests to all police forces in England and Wales amounted to 31,116 in 2010/2011.

8. There have been twelve appeals for internal review during the year, a decrease of five from the previous year. Ten resulted in the original decision being upheld; two resulted in partial release of previously withheld information. One applicant further appealed to the Information Commissioner who upheld the Constabulary's decision. This requestor has subsequently appealed the Commissioner's decision to the Information Tribunal which has yet to decide the case. The Information Commissioner completed his investigation of an appeal lodged in 2009 and issued a decision notice in October 2010 upholding the Constabulary's decision.
9. The Information Commissioner continues to monitor the publication schemes on police force web sites in compliance with section 19 of the FOI Act. Having previously been complimented by the Commissioner on the quality of information published on our web site in comparison to the criticism and the threat of legal enforcement action against other forces, the Constabulary continues to ensure the our publication scheme is up to date and of a high standard. This has recently been acknowledged by the Commissioner's lead policy officer as being informative and of a high standard.
10. The cost of servicing an average request is estimated at £350, with internal reviews costing £750. Should the Constabulary be taken before an Information Tribunal, the costs could escalate to more than £23,000.

ADDITIONAL INFORMATION

11. Each request for information requires the application of a risk assessment to determine whether or not the Authority should admit to holding the information if to do so could alert criminals and provide them with an advantage. In addition requests may require the application of one or more of the 23 exemptions that exist to protect information that it would not be in the public interest to disclose. Those exemptions actually applied over the year are identified in Appendix 2. Each use of an exemption needs careful consideration as inappropriate use may lead to an appeal and intervention by the Information Commissioner. As the public in general and the media in particular have become more accustomed to the Act the increased questioning of decision making is inevitable. If exemptions are wrongly applied the results could cost the Force a considerable amount, both financially and to the Constabulary's reputation. The 20 working day time frame for responses can be challenging and requires constant pressure on departments to provide information to ensure compliance within the time frame. Enforcement action in 2010 by the Information Commissioner against the IPCC for non compliance has highlighted this issue to ACPO and reminds all forces

of their legal obligations. Non compliance with an Enforcement Notice is held as contempt of court.

12. One case of note is that of a former officer of the Constabulary who made 7 requests to the Constabulary and the Police Authority in one day. He also made a total of 31 other requests to the IPCC, the Cabinet Office and the Metropolitan Police during 2010 all of which stem from his obsession over the way his complaints have been handled. The response from the Constabulary was made on behalf of the Authority and the Constabulary making his requests vexatious in accordance with section 14 of the Act. This enables both the Authority and the Constabulary to lawfully refuse to deal with any further requests that are substantially similar in nature. Although he appealed, the decision was upheld following an internal review carried out by a senior officer. He did not subsequently appeal to the Information Commissioner. The other Authorities have tried to provide information which have led to more requests or have refused using exemptions which again have led to further requests.
13. The Freedom of Information Act is being broadened later this year to include ACPO as a public authority in its own right. ACPO have been pressing for this as they consider that being a principle policy maker and the provider of guidance to all UK police forces it is in the public interest that they be subject to the Act.
14. It is the intention of the Constabulary to continue to explore the potential for reducing costs including opportunities to further collaborate. Whilst there is regular engagement with other Forces from the North West region achieving some commonality in approach to FOI, recognising the need for local knowledge of information, interpretation and engagement makes consolidation of FOI processes and functions with other Forces a challenge. It should be noted that the Constabulary achieves a high level of compliance with our statutory obligations in respect of both responding to individual requests and the maintenance of the publication scheme whereas the majority of other Forces both regionally and nationally have some way to go to achieve the same standard.

POLICE AUTHORITY

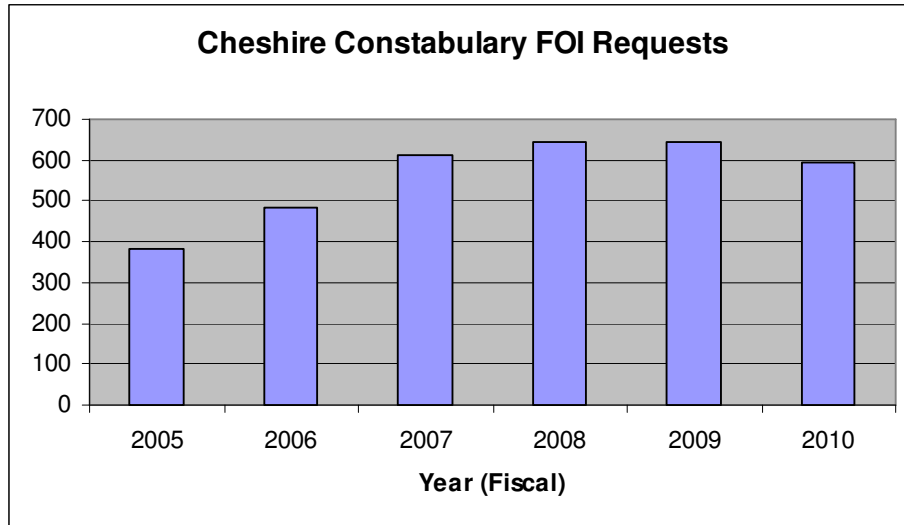
15. The Police Authority received 21 requests during the 2010/11 period – compared to 9 in the previous year. A summary of the requests and action taken is provided at Appendix 3.
16. In June 2011, the Authority reviewed the publication scheme provided on the Authority's website to ensure it remained up to date and of a high standard.

CONCLUSION

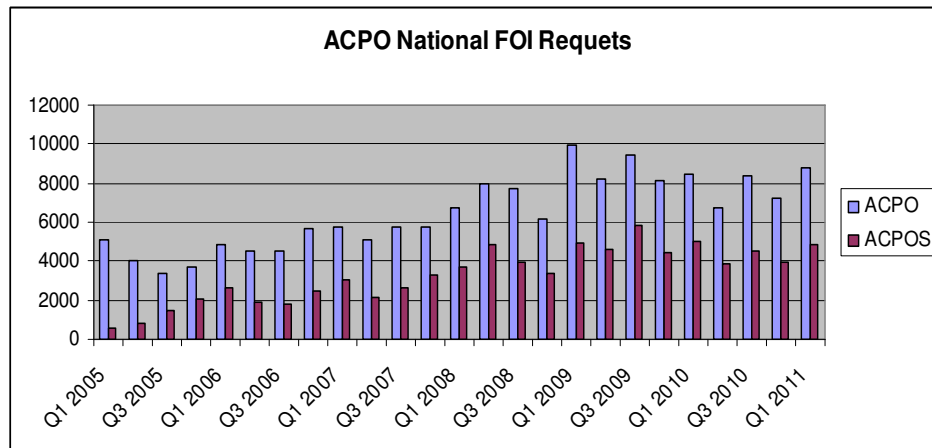
17. All indications are that the use of the Act by the general public and the media in particular will continue to grow, particularly in the light of

the Coalition Government's transparency agenda. The information requested is likely to be specifically targeted to further an objective or add weight to a news story. A significant amount of resource is already spent on servicing requests throughout the Force and it is likely that this will continue to increase.

APPENDIX 1
CHESHIRE POLICE AUTHORITY
12 JULY 2011



National Application Figures (Supplied by ACPO)



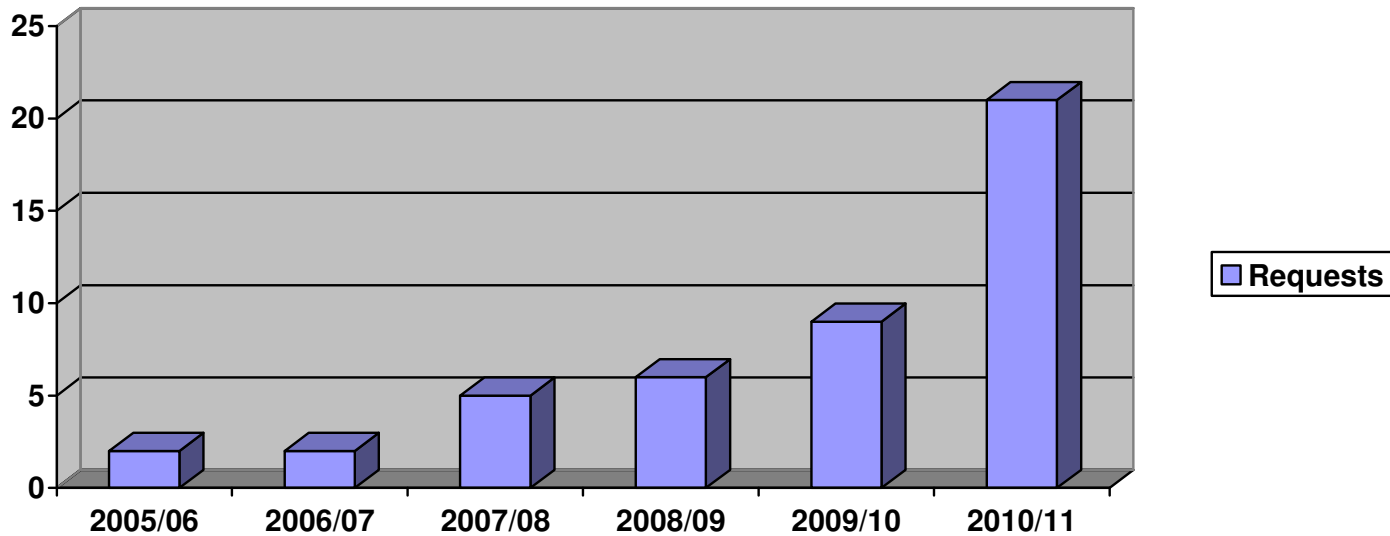
Exemption Applied to Requests: Fiscal Year 2010-2011

EXEMPTIONS APPLIED						
Reason for Exemption		No of requests refused either in part or in full 151				
		Q1	Q2	Q3	Q4	Total
NCND	Neither Confirm or Deny	3	2	1	1	7
Section 12	Cost	10	16	21	11	58
Section 14	Vexatious	1	7	1	0	6
Section 21	Available Elsewhere	13	16	19	16	64
Section 22	Intended for future publication	2	3	2	2	9
Section 23	Information from security bodies	2	2	0	0	4
Section 24	National Security	3	1	0	0	4
Section 30	Investigations	4	5	4	2	15
Section 31	Law Enforcement	6	2	3	3	14
Section 38	Health & Safety	4	3	0	2	9
Section 40	Personal Information	7	7	10	5	29
Section 41	In Confidence	1	0	0	2	3
Section 42	Legal Privilege	0	0	0	0	0
Section 43	Commercial Interests	1	0	1	2	4
Section 44	Prohibition on Disclosure	1	1	0	0	2
						231

Note* Requests may be refused citing more than one exemption.

APPENDIX 3

CHESHIRE POLICE AUTHORITY – FREEDOM OF INFORMATION REQUESTS



Subject of the Request	No. of requests received	Responded within timescale	Exemption Applied	Transferred to the Constabulary
Police Authority costs, expenditure and Members expenses.	6	6	-	-
ACPO related (salaries and benefits, duration of employment contracts, names of previous Chief and Deputy Chief Constables since 1990)	6	6	-	-
Human Resources related issues	3	-	-	3
Complaints and Conduct matters	2	2	1 (vexatious)	-
Individuals paid over £200,000	1	1	-	-
Volume of letters and e-mails received	1	1	1 (information not held)	-
Provision of interpreting services	1	1	-	-
Force Helicopter	1	-	-	1
TOTAL	21	17*	2	4

* All four requests that were transferred to the Constabulary received a response with the required timescale.