

FREEDOM OF INFORMATION ACT 2000

**Policy of Compliance for Safety Camera
Partnerships in England and Wales, including
SCP Publication Scheme**

October 2004

Contents

Introduction	12
The FOI Act – an overview	23
Preparing for FOI prior to 2005	44
Safety Camera Publication Scheme	75
Frequently asked questions	11

1. INTRODUCTION

The Freedom of Information Act will, from January 2005, require all public bodies in the United Kingdom to provide a general right of access to the information they hold. January 1st 2005 is the date on which the general right of public access becomes effective.

Safety Camera Partnerships are not public bodies but are constituted of public bodies and as such, whilst complying with the specific policies of individual parent organisations, recognise the need to embrace the legislation.

This policy document has been devised following consultation with Safety Camera Partnerships nationally and has taken on board the Association of Chief Police Officers (ACPO) guidance for responding to FOI requests after the 1st January 2005. The document details not only what information may be released (and some guidance as to format), but also outlines the practical steps that Partnerships should take to facilitate this process.

The aim of the national collaboration was to ensure that all Partnerships agree on the levels of sensitivity of the information that each holds, the frequency with which that information may be released, and the format/s it may be released in.

The policy document has been seen by the Office of the Information Commissioner and is endorsed by the ACPO FOI working group. It will be incorporated as a section in the ACPO FOI policy manual.

All Partnerships across the UK are committed to being as open and transparent as possible and providing information to the public proactively. It is their intention to publish information that the public has an interest in viewing. However, as they are committed to protecting the communities they serve through the prevention and detection of speeding and red-light running, it must be recognised that it is not in the public interest to release certain information: information concerning ongoing investigations, intelligence and the use of related operational techniques must be protected. These are central to the maintenance of an effective enforcement programme. In this respect, Safety Camera Partnerships nationally will, when appropriate and reasonable, apply the exemptions afforded under the Freedom of Information Act.

This document is designed to assist Partnerships with the following:

- Ø understanding the full implications of the Freedom of Information Act
- Ø preparing for the go-live date by rationalising information currently held by Partnerships
- Ø listing the publication schedule agreed nationally by all Partnerships which details what information Partnerships have agreed they will release (and suggestions as to what formats are appropriate) and what information they will commonly apply exemptions to.

This policy will be reviewed and updated as necessary on a regular basis.

2. THE FOI ACT – AN OVERVIEW

While 40 countries worldwide have implemented Freedom of Information legislation, the FOI Act is new to the UK. It will be effective from the 1st of January 2005, and public bodies have been obliged to produce Publication schemes in the two years preceding the implementation date. The Act will run alongside the Data Protection Act 1988. Implementation of both Acts will be the responsibility of the Information Commissioner.

The Act affords the general public two new rights:

1. The right to know whether specific information is held by public bodies, and
2. The right to obtain copies of that information (subject to exemptions).

Applicants have no obligation to explain why they want the information, and do not need to reference the FOI Act itself. Requests must, however, be made in writing (including email), applicants must provide a full name and address and must describe the information requested.

Public bodies will have a statutory duty to respond to requests and provide information to them within 20 working days of the receipt of the query.

All information that is held by public bodies will be provided to the public except for that which qualifies for exemptions – exemptions are decided mainly on whether disclosing the information is in the public interest or not. Overall, however, there is a presumption of disclosure. This relates to all information held by a public body, regardless of format or date of origin.

Areas of Exemption:

- Information that is reasonably accessible by the public in that it is already in the public domain is exempt under Section 21. This includes information provided by Partnerships on websites or in other publicity materials.
- Most personal information will continue to be subject to the Data Protection Act 1998.
- Certain information that relates to commercial activities may be exempt because the Act facilitates an exemption for Commercial Interests.
- The specific exemptions contained in the Act that may be relevant to information held by Safety Camera Partnerships are:
 - Section 30 - Investigations
 - Section 31 - Law Enforcement
 - Section 36 - Prejudice the effective conduct of public affairs
 - Section 38 - Health and Safety
 - Section 43 - Commercial Interests.
- Two specific categories of information are of particular concern to Safety Camera Partnerships. These are a) details of enforcement thresholds and b) information that could be used to deduce enforcement activity at specific sites or routes. In September 2004 ACPO applied the public interest test to evaluate whether withholding such information from the public better served the interests of the public than releasing it, and agreed that the benefit of disclosing such information was outweighed by the potential consequences to law enforcement and to the impact on road safety. As such, their guidance is that these two categories of

information qualify for exemptions under Section 31 of the Act. This will be applied on a case-by-case basis. Partnerships should utilise the wording of the ACPO decision as the basis for the exemption justification (see details in the Publication Scheme of this document).

- Exemptions may also be applied to a third category of concern - information that could jeopardise the safety or security of Partnership staff or assets – where Partnerships have a well-founded concern about the safety or security of their staff or assets. These exemptions will be made on an individual basis.
- Information that is held by a public body with a view to its publication at a later stage may also be exempt under Section 22.

Generally, all other information held by Safety Camera Partnerships will be made available to the public.

Details of what information will be published and what is likely to be subject to exemption are included in Section 4 of this document (the SCP Publication Scheme).

3. PREPARING FOR FREEDOM OF INFORMATION PRIOR TO 2005

All Safety Camera Partnerships across the UK are already committed to providing information to the public and the media on a regular basis, and so in many ways are in a good position to comply with the Freedom of Information Act. Probably the biggest challenge will be in dealing with increased numbers of requests, as it is likely that FOI publicity will encourage more individuals to request information from public bodies, including Safety Camera Partnerships. Given the high level of public interest in Safety Cameras it is inevitable that SCPs will see an increase in requests for information, and preparation should begin as soon as possible so that Partnerships are not overwhelmed with requests that they cannot manage.

Point of contact for FOI enquiries

It is essential, as a preliminary step to preparing for FOI, that each Partnership obtains agreement from their various Partners as to who, within each Partnership, will be responsible for answering FOI enquiries on behalf of that Partnership. Possibly the most logical solution is for the central Partnership team comprising the Project Manager, Communications Manager and Data Analyst to undertake this role on behalf of the bigger Partnership, as that will ensure consistency of response and avoid the potential for duplication and contradiction.

This delegation of responsibility may not be acceptable for all partners of all Partnerships, however, and there may be Partners who prefer to disseminate FOI requests to the wider Partnership team. In those cases it is essential that information held by various members of the Partnership is identified, located and checked for consistency so that all who are tasked with answering questions are able to locate information quickly and effectively.

Preparing to publish information

Partnerships should begin preparations for releasing information by ensuring that information held is up to date and that sensitive information is redacted from documents. Meeting minutes, for example, which may include information subject to exemptions will need to be edited before public release so that exempt information is redacted as appropriate. (Where a document contains some sensitive information the expectation is that the sensitive information itself be redacted prior to public release, and only after an evaluation has been made as to whether that 'sensitive information' would qualify for exemption under the Act.)

Some categories of information will require explanations to go alongside the actual data to minimise misunderstanding or misinterpretation.

Partnerships will have to address issues of document copyright with suppliers, so that any questions about copyright (of equipment manuals etc.) are resolved before queries are raised. In addition, licences for computer software should be scrutinised to determine whether there would be any issues of commercial interest or confidentiality with regards to releasing electronic information to the public. It is up to the public body, and not the third party supplier, to make this decision.

Publishing information proactively

The key to reducing the amount of time spent on replying to enquiries clearly lies in proactively publishing as much information as possible. Thought needs to go into deciding whether information will be published on Partnership websites (often the easiest solution) or whether information needs to be converted into hardcopy reports. While Partnerships may follow a national trend this decision will be left to the individual Partnership to take. Either way, resources will need to be directed to this task and plans made to expand websites and populate them accordingly.

Creation of standard letters

A sensible approach would be for Partnerships to begin to devise standard replies to queries for information. These letters should state what exemption has been applied and why that exemption is considered appropriate. Letters should also be prepared to the effect that a Partnership does not hold information that is requested.

Records management

Critically, implementation of the Act will highlight the state of records management within all public bodies. Successful implementation of FOI will depend largely on how well managed information is within each Partnership. As such, the immediate challenge facing all Partnerships is to determine what information is held within the Partnership (and where it is kept), so that information can be easily retrieved on request. This requires an **audit** to be undertaken so that all information is catalogued. This applies to hard-copy data as well as electronic information (including emails).

The audit should specify content, date, location, format and owner of any information held by a Partnership.

This document is not intended to prescribe exactly how such an audit should be conducted, but it does recommend that an audit is completed by each partnership before the end of September 2004.

Disposal of surplus information

In the process of auditing all information held by a Partnership it is good practice to identify information that is not necessary for a Partnership to hold – either because it is surplus to requirements or because it is out of date. The audit process should identify what information can be disposed of. Disposal should then occur in line with the disposal policy of each Partnership's lead Partner. Again this policy document does not prescribe how an individual Partnership should dispose of surplus data but suggests that this is an essential aspect of a smooth transition to FOI compliance.

Summary

In summary, in preparation for FOI, Partnerships are encouraged to do the following:

1. Identify a central point of contact for FOI enquiries.
2. Identify an individual or individuals who will be responsible for coordinating the information audit of each Partnership.
3. This person/s will devise an audit document and coordinate the completion of that document by the Partnership staff.
4. Ultimately this will become the centralised record of all data held by a Partnership.
5. The individual identified in 2 above will ensure that surplus information is disposed of in accordance with the Partnership's disposal schedule, and in all cases prior to the end of December 2004.

6. He or she will also ensure that all material that is no longer needed is correctly destroyed (this involves ensuring that all copies of surplus material are destroyed).
7. Wherever possible and appropriate, information should be combined into common folders for access by multiple individuals.
8. Information that can be published during the course of 2004 should be published, so that as much information as possible is in the public domain by the 1st of January 2005.
9. By the 1st January 2005 Partnerships should have proactively published those categories of information that the Publication scheme contained in this document denotes as 'publish proactively'.
10. Categories of information that should be made available 'on request' in the publication scheme should be easily retrievable, and ideally held in common folders so that they can be retrieved by one of a number of members of staff, rather than a single person.

4. SAFETY CAMERA PUBLICATION SCHEME

Under the Freedom of Information Act 2000, public authorities have to produce a Publication Scheme. The Association of Chief Police Officers (ACPO) set up a National Team to develop a Model Publication Scheme that all 44 Forces in England, Wales and Northern Ireland can use. In consultation with this team, key areas of information that the public may request from Safety Camera Partnerships have been identified.

The aim of the Publication Scheme is to set out:

- What information Safety Camera Partnerships publish or intend to publish as a matter of course
- How they may publish this information
- Whether the information will be available free of charge or on payment of a fee
- What classes of information will not be published.

NATIONAL SAFETY CAMERA PUBLICATION SCHEME

The categories of information listed below will be made available to the public. The breakdown of information indicates the most common format that information will be provided in, and some indication of cost. However, it must be noted that each Partnership will be responsible for deciding the most appropriate format of the data provided, and also for determining what charges, if any, are to be levied based on the amount of time it takes to collate the information. As such the details listed under 'Availability' and 'Cost' are guides only. **Who's Who & Where** Details of the Partnership organisational structure and key personnel. This will include, as a minimum, the senior management team and provide postal address and contact details for the Partnership.

Availability: Website

Cost: Free **What Are Our Aims, Objectives & Plans?** In this class of information Partnership documents are published. They provide information on the strategic aims, objectives and plans of the Partnerships and include Operational Case documentation.

In addition, links to useful websites that give further relevant information are provided (Partners Strategic Plans, DfT Safety Camera Handbook etc).

Availability: Website

Cost: Free **Partnership Annual Report (where relevant)** Annual report – current report published proactively, and historic reports published on request.

Availability: Website or post

Cost: Free

Partnership Policies Policies relating to the deployment of Partnership operations. It should be noted that some of the material in this category contains exempt information which, in the public interest, should not be published. Where this occurs the material will clearly show where information has been withheld and explain what exemption has been applied and why. Typically information may be withheld if its release would compromise the health and safety of staff, investigations & proceedings and speed or red-light enforcement more generally.

Availability: Website

Cost: Free **Statement of Accounts 2002/03** The most recent Statement of Accounts which shows how the Partnership spent its money in the last financial year. This will be published proactively. Partnerships will also provide historic Statements of Accounts, either proactively or on request. The accounts are approved by the Partnership Treasurer and external auditors appointed by the Audit Commission, and are compiled in accordance with current legislation and guidance.

Statements of accounts will not be provided prior to the audit, and may be exempt if the Partnership intends to publish the information at a future date.

Availability: Website

Cost: Free **Meeting Minutes**

The 'open' session of ratified minutes of formal Partnership decision making meetings will be published. They contain discussions on key strategic issues under consideration and primary decisions relating to resource and budgetary matters. The 'closed' session of the minutes are not available under this publication scheme. They contain information of a confidential and sensitive nature, e.g. personnel, operational, security matters and commercial interests. Closed sections should, however, annotate why each item included in the that section was determined to be non-disclosable and identify which FOI exemption is applicable.

Details of approved open session minutes may be available on Partnership websites. Minutes are only available to the public once they have been accepted as a true record in a subsequent meeting.

Availability: Website

Cost: Free

How Are We Doing? Information relating to Partnership performance with respect to reductions in casualties and speeds on our roads, as well as to how well Partnerships are supported by the general public.

Information will include:

- ♣ Benchmark casualty and speed data for all sites/routes (release proactively)
- ♣ Regular reports on casualty improvements and speed checks (release proactively);
- ♣ Long-term trends (release on request)
- ♣ Specific group casualties (release on request)
- ♣ Results of public surveys (release proactively).

Availability: Website or post

Cost: Most information will be provided free of charge but for requests that require lengthy searches some charges may apply.

Information that will not be released, under classified exemption, from FOI:

A. The following categories of information are likely to be exempt **because they could jeopardise the operational effectiveness of camera enforcement**, and thus fall under the Exemption as outlined in Section 31 of the FOI Act - Law Enforcement – Section A and B:

i. Specific enforcement thresholds applied by a Partnership.

This category of information will be exempted nationally because of the concern that the information contains working practices that, if known, would have an impact on operational policing." Following application of the public interest test in September 2004 ACPO concluded that: *"It is considered that the public interest in disclosing Force speeding thresholds is outweighed by the potential consequences to law enforcement and the impact of such a release on road safety measures and consequently the safety of the public at large."*

ii. Site specific information that includes:

- the level of use of a single site – e.g. Numbers of offences detected at a single site, hours of enforcement time at a site, revenue generated on a site-specific basis;
- Operational programme of fixed camera sites, and prioritisation of all sites
- Detailed programme for mobile camera routes (regular programmes may be released by those Partnerships that hold this information but this should not be too detailed or it could jeopardise casualty reduction).

The Exemption applicable is again Section 31 Law Enforcement (Section A and B). The concern is that the information contains working practices that, if known, would have an impact on operational policing. The ACPO decision reads as follows: *"It is considered that the public interest in disclosing site specific data at this level is outweighed by the potential consequences to law enforcement and the impact of such a release on road safety measures."*

B. The following categories of information will generally be exempt because they fall under the **Data Protection Act 1998**:

- i. Personal data, including actual salaries of individual staff members
- ii. Information relating to other peoples' offences.

C. Certain other types of information may be exempt because they fall under **other exemptions provided for in the FOI Act**. This includes:

- i. information that is relevant to an ongoing police investigation or to legal action (exempt under Section 30, Investigations);
- ii. information which is reasonably accessible to the applicant elsewhere or by other means (Section 21)
- iii. Information that may endanger the safety of members of the Partnership or threaten the security of its assets (Section 38 – Health and Safety).

D. Information that is **due to be published** by a Partnership in the future may be exempt under the conditions laid out in Section 22 of the Act.

5. FREQUENTLY ASKED QUESTIONS

What is the purpose of the Freedom of Information Act? To give the public greater access to information about the workings of government and public bodies.

What new rights does the Act create? The Freedom of Information Act 2000 gives two related rights:

- The right to be told whether the information exists, and
- The right to receive the information (subject to exemptions).

When does the Act come into force?

What obligations does the person requesting information have? The Individual Right of Access comes into effect on 1st January 2005. Public authorities also have to adopt and maintain a Publication Scheme which should be in place prior to January 2005.

The applicant must make the request in writing, must supply their name and an address for correspondence and must describe the information requested. Request may be in electronic format. An accurate name and an address for correspondence should be provided which should not be simply a return email address. This will enable public bodies to keep track of who is making requests for what information, and so identify vexatious or repeated requests.

What obligation does the SCP or other public body have? The public body must, within twenty working days of receipt of the request, either supply the information, inform the applicant that the information is exempt or is not held by that body, or give the applicant a notice in writing that a fee is to be charged for supplying the information, whichever is appropriate. Where the authority has given a fees notice to the applicant and the fee is paid, the working days in the period beginning with the day on which the fees notice was given to the applicant and ending with the day on which the fee was received by the authority are to be disregarded in calculating the twentieth working day following the date of receipt.

Public bodies are obliged to publish publication schemes which shall specify the classes of information which the body will publish; state how the information will be published and confirm whether the information will be provided free of charge or whether a fee will be required. This information is included as Section 4 of this document.

Who is responsible for dealing with FOI requests? All public bodies are obliged to respond to requests for information. As SCP personnel are employed by public bodies they share this obligation, in spite of the fact that a Safety Camera Partnership itself does not constitute a public body for the purposes of the Act. SCP staff are ideally placed to answer queries about Safety Camera Operations on behalf of their partners as they are the repository of most Partnership information. Furthermore, although not a legal entity nor a body listed in Schedule 1 of the Act, the Act makes provisions for any bodies that are 'established in any other way by a Minister of the Crown in his capacity as Minister, by a government department or by the National assembly for Wales' to be included as a public body.

Broadly speaking the Act requires the recipient of a query to answer that query – not deflect it

elsewhere. As such, if SCP personnel are tasked with providing answers for their Partnership it is important that each Partnership advertises that fact as widely as possible, and also that internal communication is efficient so that the SCP team can be called on to provide an answer for a Partner should a query be sent to them.

However, it may be that queries of a specific nature that concentrate on one Partner's expertise (e.g. signage issues) may in fact be more appropriately answered by the partner in question. This will need to be determined on a case-by-case basis. Some Partnerships may prefer not to centralise FOI enquiries within the SCP team, in which case it is important for the Partnership to be fully informed as to what information is available and where it is held.

If the information is held by a public body but owned by another is it mandatory to release it? For some types of information it may be necessary to obtain permission from the owner to release that information, or more appropriate to transfer the request to the owner of that information. However, requests can only be redirected with the applicant's permission. If the information is already available from the owner of the information then it is exempt under Section 21 - the applicant should be informed thereof and no further action taken. This would apply, for example, to casualty data held by the police which is provided to the public on request (and generally for a fee).

Must all Safety Camera Partnerships provide the same information? If a Safety Camera Partnership regularly releases information to the public that other SCPs hold, a precedent may be established which may oblige all SCPs to release that information in a similar manner. This is why national agreement on what information is exempt and what should be released has been so critical. SCPs nationally have agreed on this publication scheme so there should be consistency from one Partnership to another. The format in which information will be released is the decision of each Partnership.

Occasional release of information by one Partnership does not necessarily, however, constitute a precedent as long as it does not generate an expectation from the public that this information will be released. This gives Partnerships some flexibility to release information if they feel that the benefits of releasing that information are worthwhile. In all cases, however, Partnerships have a responsibility to ensure that this is not a regular release of information and thus does not set a precedent for other Partnerships.

What about requests that come in prior to 1st January 2005? Partnerships or their constituent partners are under no legal obligation to provide any information apart from a Publication Scheme until January 2005. However, as part of our remit as Safety Camera Partnerships nationally is to inform the public and be as transparent as possible, it is good practice to begin to provide information where possible.

What about requests that are vexatious or intended to disrupt daily operations?

Can a public body decline to release information if collating it would take an excessive amount of time?

Public bodies are not obliged to reply to vexatious queries. Where a body has replied to a request and an identical or substantively similar request is subsequently received the body is not obliged to reply unless a reasonable interval has passed between applications.

A public authority does not have to comply with a request for information if it estimates that the cost of complying would exceed the limit set by the regulations. Current draft regulations limit fees to a total of £550.00 of staff time (with charges currently set at £15.00 per hour this equates to 36.6 hours of work).

Will the public have to pay for any of the information included in the Publication Scheme?

Some information will continue to be charged for – each Partnership will supply details on their own website. Under the FOI, answers to queries can be charged for, based on the amount of time it takes for the query to be answered. An organisation is able to recover 10% of the costs of compiling that information from the applicant, up to a maximum of £55.00. The current hourly cost agreed by ACPO is £15.00 per hour. Details of possible charges can be found on the Information Commissioner's website.

Is there any guidance on the format and accessibility of the information that is to be provided?

If a request is made for information in a particular format the public body is obliged, so far as is reasonably practical, to provide the information in that format. Where it is decided that it is not reasonably practical the applicant should be notified of this and the reasons for the decision.

On occasions, if an applicant makes it clear that there are special circumstances that limit his/her mobility (e.g. health or access problems) this should be taken into account when dealing with the request. If information is normally made available for inspection then consideration should be given to providing a personal copy of the information. There is no legal obligation to do so, but the authority is obliged to take these circumstances into consideration.

Similarly, if it is clear from the application that the applicant would have difficulty understanding information in English it may be reasonable to provide a translation. However there is no duty placed on public bodies to translate information it holds into different languages. If an applicant is disabled and requests information in another format, such as Braille or an audio-tape, the public body should communicate information in that format provided it is reasonably practical to do so.

Does the Act only apply to records created from 1st January 2005?

No, the Act is fully retrospective.

Will individuals be able to obtain personal information about themselves or others under the Act?

Requests for personal information will be dealt with under the Data Protection Act 1998.

Who ensures that Safety Camera Partnerships comply with the Act?

The Office of the Information Commissioner is responsible for ensuring that all public authorities comply with the Act.

Public authorities who fail to comply with the Act or with any decision made by the Information Commissioner with regards to the provision of information may be dealt with by the High Court as if they were in contempt of Court.