

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 February 2024

Public Authority: Chief Constable of Gwent Police
Address: Headquarters
Croesyceiliog
Cwmbran
Torfaen
NP44 2XJ

Decision (including any steps ordered)

1. The complainant submitted a request to the Chief Constable of Gwent Police (Gwent Police) for information about the delegation of authority from the Chief Constable, in relation to settling appeals regarding pensions.
2. The Commissioner's decision is that, on the balance of probabilities, Gwent Police does not hold any further information within the scope of the request and has therefore complied with section 1(1) of FOIA. However, in failing to respond to the request within 20 working days, the Commissioner has determined that Gwent Police breached section 10(1) of FOIA.
3. The Commissioner does not require further steps as a result of this decision notice.

Request and response

4. On 8 March 2023, the complainant wrote to Gwent Police and requested information in the following terms:

“Please could I obtain a copy of the letter/ Document, which outlines/infers delegation of Authority from **The Chief Constable of Gwent Police** Delegating Powers to The Appropriate Person / Department which gives authority for that Person / Authority:

- i) To settle appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996, in relation to employees of the Chief Constable.
- ii) To settle appeals against decisions of the Administrator of the Police Pension Scheme, in line with the Internal Dispute Resolution procedure under the Police Pension Regulations 1987, The Police Pension Scheme 2006 & The Police Pension Scheme 2015.

The document may be in existence from 1987 onwards.

If there is no single / Group of documents which confer these powers to a Department / Person that passes between successive Chief Constables, please could you supply the below:

Please could I obtain a copy of the letter/ Document, which outlines/infers Delegation of Authority from **Chief Constable Pam Kelly** Delegating Powers to The Appropriate Person / Department which gives authority for that Person / Authority:

- iii) To settle appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996, in relation to employees of the Chief Constable.
- iv) To settle appeals against decisions of the Administrator of the Police Pension Scheme, in line with the Internal Dispute Resolution procedure under the Police Pension Regulations 1987, The Police Pension Scheme 2006 & The Police Pension Scheme 2015

This document may be dated between June 2019 and Present Day.

Please could I obtain a copy of the letter/ Document, which outlines/infers Delegation of Authority **Chief Constable Julian**

Williams Delegating Powers to The Appropriate Person / Department which gives authority for that Person / Authority:

- i) To settle appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996, in relation to employees of the Chief Constable.
- ii) To settle appeals against decisions of the Administrator of the Police Pension Scheme, in line with the Internal Dispute Resolution procedure under the Police Pension Regulations 1987, The Police Pension Scheme 2006 & The Police Pension Scheme 2015

This document may be dated between January 2017 and June 2019 (Inclusive)

Please could I obtain a copy of the letter/ Document, which outlines/infers Delegation of Authority from **Chief Constable Jeff Farrar** Delegating Powers to The Appropriate Person / Department which gives authority for that Person / Authority:

- i) To settle appeals against decisions of the Senior Administrator of the Local Government Pension Scheme, in line with the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996, in relation to employees of the Chief Constable.
- ii) To settle appeals against decisions of the Administrator of the Police Pension Scheme, in line with the Internal Dispute Resolution procedure under the Police Pension Regulations 1987, The Police Pension Scheme 2006 & The Police Pension Scheme 2015

This document may be dated between January 2013 and December 2017 (Inclusive)."

5. A response was provided on 4 July 2023 in which Gwent Police provided the complainant with a link to the Manual of Governance and directed them to the paragraph where delegation of authority is confirmed.
6. Upon receiving this response, the complainant submitted an internal review request on 4 July 2023. After intervention by the Commissioner, Gwent Police provided its internal review response on 20 October 2023 in which it provided a further, relevant section of the Memorandum of Governance.

Scope of the case

7. The complainant contacted the Commissioner on 3 September 2023 to complain about the way their request for information had been handled.
8. After receiving Gwent Police's internal review response, the Commissioner contacted the complainant to see if they were happy with the response provided.
9. The complainant expressed concerns that Gwent Police had not provided the actual document requested, nor confirmed if it holds or doesn't hold it.
10. As the complainant has informed the Commissioner that their complaint centres on this key issue, then the Commissioner considers that this is the scope of his investigation.

Reasons for decision

11. Section 1(1) of FOIA states that:

Any person making a request for information to a public authority is entitled-

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

12. The Commissioner has sought to determine whether, on the balance of probabilities, Gwent Police holds the requested information.
13. In its initial response, Gwent Police confirmed that the Chief Constable delegated authority to Chief Officers through the Manual of Governance, and it provided a link to this.
14. In submissions to the Commissioner, Gwent Police confirmed that the requested documents, from each named Chief Constable, do not exist and that the delegation of authority is covered by the Manual of Governance.
15. Gwent Police further explained that "a review of all force policies has been undertaken", and that electronic searches were performed on the departments electronic drives using the search terms of 'Internal Dispute Resolution Procedure', 'IDRP', 'delegation', 'delegated authority', 'delegation by Chief Constable' and 'pension powers'.

16. The Commissioner notes the complainant's comments that Gwent Police "have fallen silent on either confirming they have the necessary signed documents and have failed to supply the requested copy(s) or confirmed that they do not have or hold that information on file".
17. However, Gwent Police has since confirmed that it does not hold any further information, in relation to the scope of the request. It reiterated that since 2012, with the establishment of The Office of the Police and Crime Commissioner and the Operational Communications Centre, delegations are to the Assistant Chief Officer of Resources as detailed in the Memorandum of Governance.
18. After receiving this clarification, the complainant stated that they were "content" with this explanation. However, they did raise concerns surrounding the date of the 2022 Manual of Governance. The complainant provided evidence to show that it was signed in April 2022, but created in November 2022.
19. Again, Gwent Police clarified this and stated that as the document is a living document, it may be updated throughout the year to "reflect statutory and personnel changes." Gwent Police also provided a link to show why the 2022 Manual of Governance had been updated in November 2022.
20. Gwent Police further explained that the Manual of Governance is updated on at least an annual basis, with all the changes made available online¹.
21. Having considered all the circumstances in this case, and on the balance of probabilities, the Commissioner is satisfied that Gwent Police does not hold any further information falling within scope of the complainant's request, and that it has therefore complied with section 1(1) of FOIA.

Procedural matters

Section 10 – time for response

22. Section 10(1) of FOIA states that a public authority must respond to a request promptly and in any event not later than the twentieth working day following the date of receipt.

¹ <https://www.gwent.pcc.police.uk/en/transparency/joint-audit-committee/>

23. The request for information was made on 8 March 2023 and Gwent Police provided a response on 4 July 2023. As this was more than 20 working days after the request was made, the Commissioner finds that Gwent Police breached section 10(1) of FOIA.

Other matters

24. During the course of his investigation, the Commissioner considered that, as Gwent Police provided a link to the Memorandum of Governance, in its initial response, it should have applied section 21 of FOIA to the request. However, as the complainant's complaint centred on whether the requested documents were held, the Commissioner continued to investigate section 1(1) of FOIA.
25. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 Code of Practice sets out, in general terms, the procedure that should be followed. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances.
26. In this case the complainant requested an internal review on 4 July 2023 and Gwent Police provided the outcome of its review on 20 October 2023, over 75 working days later. The Commissioner reminds Gwent Police of the Code of Practice and urges it to respond in a timely manner.

Right of appeal

27. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Joanna Marshall
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF