



## **Information Sharing Protocol**

Revised May 2018

## **1 Introduction**

- 1.1 Under the Police Reform and Social Responsibility Act 2011 the Police and Crime Commissioner is responsible for holding the Chief Constable to account while the Chief Constable retains operational independence. The very nature of the police service means that a lot of the information handled by the Chief Constable and their staff will be of a sensitive and confidential nature. The inappropriate use of this information could have very serious consequences.
- 1.2 The appropriate sharing and use of information to allow the Police and Crime Commissioner and the Chief Constable to deliver their respective roles is therefore critical.

## **2 Legislative Framework**

- 2.1 There is a vast amount of legislation governing various aspects of information handling. The main legislation covering information is:

### **(a) The Freedom of Information Act 2000**

This Act gives the public a general right of access to information held by public authorities. It also required such public sector bodies to have an approved publication scheme, which is a means of providing access to information which a public body proactively publishes.

When responding to requests, there are procedural requirements set out in the Act which a public body must follow. There are also valid reasons for withholding information, which are known as exemptions from the right to know.

### **(b) Human Rights Act 1998**

Gives legal effect in the UK to the fundamental rights and freedoms contained in the European Convention of Human Rights (Sections 2 and 8).

### **(c) Equality Act 2010**

Under this policy no person will be treated less favourably on the various grounds outlined in the Act.

### **(d) Data Protection Legislation**

Data protection legislation requires that **personal** information records must comply with the principles set out below:

- being fairly and lawfully processed

- being processed for limited purposes and not in any matter incompatible with those purposes
- be adequate, relevant and not excessive
- accurate, and where necessary, up to date
- not being kept longer than necessary
- being processed in accordance with individual rights
- kept secure
- not be transferred abroad unless to countries or organisations with adequate data protection laws

2.2 In addition to specific pieces of legislation the duty of confidence falls within common law as opposed to statutory law and derives from cases considered by the courts. There are generally three categories of exception to the duty of confidence where:

- there is a legal compulsion to disclose;
- there is an overriding duty to the public;
- the individual to whom the information relates consented.

2.3 In sharing information the Police and Crime Commissioner and the Chief Constable need to be mindful of the various governing legislation.

### **3 Aims and Objectives**

3.1 The aim of this protocol is to provide an information sharing framework for the Police and Crime Commissioner and the Chief Constable.

3.2 These aims include to:

- guide the Police and Crime Commissioner and the Chief Constable on how to share information lawfully;
- explain the security and confidentiality laws and principles of information sharing;
- increase awareness and understanding of the key issues;
- support a process that will monitor and review all information flows;
- encourage flows of appropriate information;
- protect the Police and Crime Commissioner and the Chief Constable from accusations of wrongful use of information;
- identify the legal basis for information sharing.

### **4 General Principles**

4.1 The principles outlined in this protocol are recommended good standards of practice or legal requirements that should be adhered to by both the Police and Crime Commissioner and the Chief Constable.

- 4.2 This protocol sets the core standards applicable to both the Police and Crime Commissioner and the Chief Constable and should form the basis of all information sharing.
- 4.3 Both the Police and Crime Commissioner and the Chief Constable are responsible for ensuring that organisational measures are in place to protect the security and integrity of personal information and that their staff are properly trained to understand their responsibilities and comply with the law.
- 4.4 The free exchange of information helps produce an open and transparent relationship between the Police and Crime Commissioner and the Chief Constable. It should also aid the development of a relationship built on trust and mutual respect for each other's respective roles.
- 4.5 The general characteristics of good information are that the information should be:
- relevant
  - up-to-date
  - accurate
  - capable of meeting the needs of the user
  - in a format that is easy to digest
  - reliable
  - cost effective to produce

## **5 Responsibilities when Sharing Information**

- 5.1 Both the Police and Crime Commissioner and the Chief Constable are responsible for:
- ensuring that their organisational and security measures protect the lawful use of information shared under this Protocol;
  - ensuring an appropriate level of security is applied to supplied information and that shared information is used appropriately;
  - accepting responsibility for independently or jointly auditing compliance with the Information Sharing protocol in which they are involved within reasonable time-scales.
  - ensuring that all staff of their respective organisations abide by their rules and policies in relation to the protection and use of confidential information;
  - ensuring that contracts with external service providers include a condition that they abide by their rules and policies in relation to the protection and use of confidential information;
  - having a written policy for retention and disposal of information.

## **6 Restrictions on the Use of Shared Information**

- 6.1 All shared information, personal or otherwise, must only be used for the purpose(s) specified at the time of disclosure(s) unless obliged under statute or regulation, or under the instructions of a court or as agreed elsewhere.

## **7 Security**

- 7.1 Both the Police and Crime Commissioner and the Chief Constable will adopt security classification for information.
- 7.2 If there is a security breach in which information is compromised, the originator will be notified at the earliest opportunity.
- 7.3 The Police and Crime Commissioner comes under the Local Government Acts and, in most cases, proceedings (and papers) are open to the public in line with transparent and open government. There is provision whereby certain proceedings can be declared 'exempt' and thus are not openly reported. The general rule is that business of the Police and Crime Commissioner is open to the public.
- 7.4 The West Mercia Police Force uses the Government Protective Marking Scheme and every document emanating from them is marked **Official / Secret / Top Secret**
- 7.5 This protocol advocates that the Police and Crime Commissioner should adopt the same marking scheme in respect of information passed to the Force. Such a practice would establish a mutual understanding as to the sensitivity of information being passed or received.

## **8 Information Quality**

- 8.1 Information quality needs to be of a standard fit for the purpose it is to be used for, including being complete, accurate and as up to date as required for the purposes for which it is being shared.
- 8.2 Shared information should not be retained for longer than is necessary.
- 8.3 Both the Police and Crime Commissioner and the Chief Constable are expected to give undertakings that information meets a reasonable quality level for the proposed purposes for which it is being shared.

## **9 Individual Responsibilities**

- 9.1 Both the Police and Crime Commissioner and the Chief Constable are personally responsible for:
- safekeeping of any information they obtain, handle, use and disclose;

- knowing how to obtain, use and share information they legitimately need to perform their respective roles;
- upholding the general principles of confidentiality, follow the guide-lines set out in this Protocol and seek advice when necessary;
- being aware that any violation of privacy or breach of confidentiality is unlawful and a disciplinary. Criminal proceedings might also be brought against that individual.