Rights of Access Requests

Abstract

This policy details where and how requests and applications for information should be submitted. It also includes frequently asked questions and details common errors to avoid when submitting a request in order to prevent significant delays.

Supporting Documents/Procedures

- Data Protection Policy and Procedure

Policy

1. Introduction

1.1 The Data Protection Act 2018 (DPA 2018) allows any individual to find out what information is held about them electronically, as well as physical records. This policy ensures individuals requesting information from Surrey Police or Sussex Police understand the criteria and process and can manage their expectations in relation to timeframes and what information they can lawfully request under Part 3 Section 45 of the DPA 2018.

2. Scope

2.1 The procedures associated with this policy detail where and how requests and applications for information should be submitted and how each force will monitor the procession of the application for audit purposes.

3. Policy Statement

3.1 Surrey Police and Sussex Police will comply with our statutory obligations under the DPA 2018 to provide requested information in line with the criteria detailed in the procedures.

Procedure

1  Requests and applications

1.1 Requests for information under this act can be made verbally or in writing and it is the responsibility of the officer or staff receiving the request to ensure that it is directed to the relevant Information Access Team (IAT). Requests are most efficiently made by the completion of a Section 45 Data Protection application form, also known as the rights of access form. Use this Surrey form or Sussex form to request copies of personal information which may be held by Surrey Police or Sussex Police e.g. incident logs, custody records, crime reports. Confirmation of identity will be required before any information is released.

1.2 Rights of Access applications will be routed via the relevant IAT for recording and processing where each one is given a unique reference number.
1.3 Surrey Police and Sussex Police maintain numerous databases containing personal and special category information. For this reason while all reasonable attempts will be made to identify information we are unable to guarantee that all information relating to an individual will be identified without the provision of reference numbers/times/dates or officers identification, initial searches will be of main crime system NICHE, ICAD/STORM only.

1.4 Requests for “all materials” held by Surrey Police or Sussex Police will be limited to main crime systems without further clarification from the requestor. If advice is required for the submission of the request the relevant departments can be contacted on the details provided within the form.

1.5 Where a request is received that includes access to body worn video (BWV) and CCTV as part of a Rights of Access Request, the decision maker will review the footage and where it is apparent that redaction of third party information, visual and audio, is required, that part of the request will be refused upon grounds that it is currently manifestly unfounded and excessive. Once Surrey Police and Sussex Police have the technology and resources to manage such requests this procedure will be reviewed. In the meantime, the opportunity to come to a police premises to view the material will be offered to the applicant. (Sussex Police – Viewings will be held at Police Headquarters in Lewes only). No recording of the footage will be permitted.

1.6 Any complaints regarding the disclosure of information under Section 45 of the Data Protection Act 2018 should be made to the Information Commissioner’s Office (ICO).

1.7 Requests for information from current serving members of staff should be made to the relevant departments that hold the information directly.

1.8 Information required for Legal purposes – Any requests for information for legal purposes e.g. civil cases, family cases, legal advice or defending a legal position should be made under Schedule 2, Part 1, Paragraph 5 Subsection 3. Use this Surrey Form or Sussex Form to request information under this legislation. Requests for information submitted under Subject Access for information for legal purposes will be refused. Advice will be provided about the correct form of application.

1.9 It is not uncommon, for Surrey Police and Sussex Police to receive Freedom of Information requests asking for the requestors personal Information. Where this happens the forces will treat such requests as a Rights of Access Request (ROA). It will still be necessary for the requestor to provide copies of 2 forms of identification before the processing will begin.

2. Information held on the Police National Computer (PNC)

2.1 Information held on PNC – this is now dealt with centrally by ACRO Criminal Records Office – Conviction history can be obtained by completing ACRO SAR1 form here which can be completed online or alternatively by post. The applicant will receive a list of criminal convictions, cautions, juvenile reprimands and final warnings or a letter confirming that no information is held.

3. Immigration

3.1 Individuals requiring Police Certificates for the purposes of applications for immigration, visas, work permits or residency in Australia, Belgium, Canada, New Zealand, United States of America or South Africa should download an application from www.acro.police.uk

3.2 For employment purposes – individuals should be referred to Disclosure Scotland website which provides suitable reports for employers www disclosurescotland.co.uk

4. Police Information

4.1 Police information is often requested because the applicant is seeking information to support a matter they are involved in. It should be stressed to them that any details which may identify another individual will be removed before results are sent unless it is reasonable in the circumstances for it to remain.
5. Frequently asked questions about Rights of Access for Information held by Surrey Police and Sussex Police

5.1 How do I get an application form?
Applicants can obtain a Data Protection form from:
- their local police station front counter
- via the Surrey Police website HERE or via the Sussex Police website HERE

5.2 How much does it cost?
Under the Data Protection Act 2018 there is no fee for a request for information under the rights of access process of Section 45.

5.3 What identification do I need to provide?
All applicants must submit two official documents which between them provide name, date of birth, current address and signature for example birth certificate, driving license, passport, medical card, utility bill, bank statement, pension book.

5.4 Can I send photocopies of my identity documents?
Yes – one must include your signature.

5.5 Where do I return the form to?
Applicants should return their form to either:
- Their local police station (form is checked, identity documents and receipt reference are recorded before being passed back to applicant, form is then forwarded to the Rights of Access Officer within the Information Access Team).
- For Surrey direct to: Information Access Team, Surrey Police, PO Box 101, Guildford, GU1 9PE (copy identity documents must be enclosed).
- For Sussex direct to: Information Access Team, Sussex Police, HQ, Church Lane, Lewes, East Sussex, BN7 2DZ (copy identity documents must be enclosed).

5.6 How long will it take?
Under the Data Protection Act 2018 subject access applications must be processed and sent back to the applicant within a maximum of a calendar month from the following date of receipt of application.

5.7 Do you accept faxed or emailed forms?
We can accept faxed or emailed form as long as the identification documents are included.

5.8 Is Rights of Access the same as Disclosure and Barring (DBS) checks?
No, if the applicant's request is because they wish to take up a post working with children or vulnerable adults, the application should be made via the Disclosure and Barring in Liverpool - a government department with responsibility for this type of check. A Disclosure and Barring check is more in depth - Education and Social Services systems are also searched, as they maintain lists of people found not suitable to work with children or vulnerable adults due to improper behaviour or abuse in the past. A Disclosure and Barring check will also include local police systems, covering the applicant's address history during the last five years.

5.9 Can I use Rights of Access to get hold of someone else's records?
No. All applications must be made by the person requiring the search and cannot be made on behalf of someone else (unless there is a Power of Attorney and proof is provided). A parent can ask for details of a child however this is dealt with on a case by case basis as the rights of the child will need to be considered. If
the child is 13 years old or older they will need to submit an application themselves. Third party information will be removed from documents in line with the rights and freedoms of third parties.

5.10 How can I get a copy of my previous convictions or proof that I have no convictions

Apply to the National Police Chiefs’ Council (NPCC, formerly ACPO) Criminal Records Office – use ACRO SAR1 form (see links above in Information held on PNC).

5.11 How can I get a police clearance certificate/certificate of good conduct?

Police Certificates are not provided locally. Such requests will need to be made via the ACRO Criminal Records Office.

5.12 Applications can be made verbally

Rights of access applications can be made verbally over the phone and/or in person. The information will be recorded on our system but identification documents will be required before the request is valid and the calendar month time scale will commence.

6. Common mistakes which may delay processing of forms

The Rights of access form should be easy to follow. However, a number of small but serious errors will cause the form to be returned. The main errors are:

Date of birth
This is frequently left off forms and without it a check cannot be carried out.

Other names
The application must contain all previously used names to enable a thorough search to be carried out.

Identification Documents
The correct proof of identity documents (with signature) must be included with the application form. If any documentation is missing the application form will be returned to the applicant and process will be delayed.

Reply address
If the applicant is likely to move within a calendar month of the application it is recommended they quote the address to which they are moving on the form. All replies are sent direct to the applicant.

Signature
The form must be signed by the applicant only (or by someone with Power of Attorney).

7. Right to Rectification and erasure or restriction of local information

Under Data Protection Act Part 3 Sections 46 and 47 enables the Data Subject to ask for the data to be corrected, or erased or the processing restricted. Any requests under Section 46 and 47 need to be made in writing to Information Management at Surrey or Sussex.

8. Right to Rectification and erasure or restriction of information on Police National Computer

This is managed and dealt with by ACRO and forwarded to local forces to make the appropriate decisions but requests must be made through ACRO.

Any requests for rectification and erasure or restriction of information held on PNC must be made through ACRO.

Team: Information Access Team Surrey and Sussex