



West Yorkshire
Fire & Rescue Service

Freedom of Information Policy

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Contents

1	Commitment	3
2	Introduction	3
3	Definitions	3
4	Publication Scheme	4
5	Policy	4
5.1	Requests for information under the Freedom of Information Act.....	5
5.2	Advice and Assistance	6
5.3	Fees.....	6
5.4	Time for Compliance	7
5.5	Consultation with Third Parties.....	7
5.6	Refusal of a Request.....	7
5.7	Exemptions	7
5.8	Public Sector Contracts.....	9
5.9	Training.....	9
5.10	Monitoring, Review and Evaluation	9
6	Responsibilities	10
6.1	The Authority.....	10
6.2	Principal Officers and Heads of Department.....	10
6.3	Managers	10
6.4	All Staff	10
6.5	Information Governance Manager.....	10
6.6	Information Champions	11
7	Interface between the Freedom of Information Act 2000 and the Data Protection Act 2018 (incorporating GDPR)	11

1 Commitment

West Yorkshire Fire and Rescue Authority recognises the importance of the Freedom of Information Act 2000 (FOI). It supports a culture of transparency, openness and accountability. The Authority will ensure it complies with the Act by:

- Making as much information available as possible through the Authority's Publication Scheme.
- Making the provision of information a priority and aiming to comply with the 20 working day deadline.
- The Authority will use the exemptions in the Act (the reasons not to give information out) as a last resort. If a member of the public asks for information, which is subject to an exemption, the Authority will implement the public interest test to decide whether the information can be released.

2 Introduction

The Freedom of Information Act 2000 (the "Act") received Royal Assent on 30 November 2000 and came into force on 1st January 2005.

The Act gives people the right to request information from public authorities. It is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do, and how they spend public money.

Subject to the exemptions in the Act, persons who make a request to a public authority for information must be informed whether the public authority holds that information and, if so, the public authority must communicate that information to them.

The **Data Protection Act 2018 (incorporating GDPR)** and the **Environmental Information Regulations 2004 (EIR)** should be taken into consideration when reading this Policy because these Acts work in conjunction with the FOI Act to provide a framework which affords the public access to information held by public bodies like West Yorkshire Fire and Rescue Authority.

- The DPA 2018 (GDPR) allows access to personal information of which the Applicant is the subject;
- The EIR allows access to environmental information held by public bodies; and
- The FOI Act allows access to all other information.

The FOI Act has substantially altered the impact of the DPA 2018 (GDPR) because all hardcopy records containing personal information are now regulated under the DPA 2018 (GDPR). In the past, only structured files applied. Also, if an individual wishes to obtain information regarding personal records held by a public body about them, they must do so using a "Subject Access Request" under the DPA 2018 (GDPR). However, if the information the applicant is looking for is non-personal and held by a public body, the provisions of the FOI Act or the EIR Act will apply.

3 Definitions

To aid the understanding of this document and the provisions of the Act the following definitions are provided for assistance.

Publication Scheme is essentially a guide to the information a public authority routinely publishes or intends to publish and may prove helpful in assisting the public to understand what a public authority does, and the service it provides. The Publication Scheme must specify whether the information contained within it will be available free of charge or on payment.

Personal Data means data about a living individual who can be identified from that information (or from that and other information in the possession of the data controller). This includes an expression of opinion about the individual, and any indication of the intentions of the data controller or any other in respect of that individual.

The Information Commissioner is an independent officer who is appointed by Her Majesty the Queen and who reports directly to Parliament.

The Authority is the West Yorkshire Fire and Rescue Authority.

4 Publication Scheme

The Authority has adopted and maintains a Publication Scheme setting out the classes of information which it publishes or intends to publish and specifying the manner of publications and whether any fee is to be charged for the information.

The Authority's Publication Scheme has been approved by the Information Commissioner and is available at www.westyorkshire.gov.uk.

This Publication Scheme will be reviewed at least annually. Information contained within the Authority's Publication Scheme is exempt under the Freedom of Information Act as it is 'accessible to the applicant by other means'.

Whilst there is no requirement under the Act to specify a time within which this information will be provided, the Authority will ensure that it is provided to the applicant without delay.

5 Policy

The Authority supports the objectives of the Freedom of Information Act 2000. In order to operate effectively, West Yorkshire Fire and Rescue Authority needs to collect and use information about all its functions. This policy is intended to promote a culture of openness and accountability, and to comply with the Freedom of Information Act 2000 (FoIA) the Authority has a responsibility to ensure that this information is either routinely made available or provided on request unless there is a legal reason for withholding it. The Authority will take all necessary steps to ensure that this duty is observed and that all information collected and used by it is managed in line with the Freedom of Information Act 2000. In particular:

- The Authority will ensure the public are able to exercise their general right of access to recorded information it holds, subject to certain conditions and exemptions.
- In cases where information is exempt from disclosure, except where an absolute exemption applies, the Authority will:
 - Inform the applicant whether it holds the information requested.

- Communicate that information to the applicant, unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure.
- Adopt and maintain a publication scheme, approved by the Information Commissioner, which relates to the publication of information the Authority publishes.
- Provide adequate and relevant advice and assistance to applicants to aid them in their application.

This Policy links to the Authority's other policies and procedures as listed:

- Information Security Policy
- Guidance for Managers on the Freedom of Information Act 2000
- A Guide to the Freedom of Information Act
- Data Protection Policy
- Data Quality Policy
- Records Retention Schedule
- Access to Information Policy

The Freedom of Information Policy constitutes the framework document to guide the Authority's practice in relation to meeting its requirements under the Freedom of Information Act 2000, and the Codes of Practice issued under sections 45 and 46 of the Act relating to Access to Information and Records Management.

5.1 Requests for information under the Freedom of Information Act

The Freedom of Information Act confers two statutory rights on applicants, a right to:

- Be informed whether a public body holds certain information, if so;
- To have that information communicated to them.

A request for information not included within the Publication Scheme must be made in writing, which can include using the Information Request Form located on our website, however, EIR requests can be a verbal request. The Authority may charge for the supply of the information in accordance with the Fees Regulations set out by the Act.

The request for information must:

- Be in writing (including electronic means, e.g. e-mail or fax) – advice and assistance should be offered to any individual who is unable to put their request in writing.
- State the name of the applicant.
- State an address for correspondence.
- Describe the information requested.

Where possible the information will be supplied in the format requested by the applicant. However, requests can be met by providing a copy of the original document, as a summary of the original or even by allowing the applicant to visit the Authority to read the document(s).

Requests for information must be met within 20 working days of receipt of the request or fee.

5.2 Advice and Assistance

The Authority will provide advice and assistance, so far as reasonably practicable, to persons who have made, or propose to make, requests for information.

5.3 Fees

This section replaces any “Information Charging Policy” previously published by West Yorkshire Fire and Rescue Service.

Ordinarily, the Authority will not charge a fee for the provision of information on its Publication Scheme. The Authority may charge a fee for the provision of information outside the Publication Scheme if the fee exceeds £450 (the “Appropriate Limit”) (at a rate of £25 per hour). When calculating whether answering a request will exceed the Appropriate Limit, the Authority may not take into account the costs of considering whether information is exempt under the FOI Act. The Authority may, however, take account of the costs involved in the following activities:

- Determining whether the information is held;
- Locating and retrieving it; and
- Extracting the information (including editing).

The Authority may refuse to supply information where an estimate is over £450 and will inform an applicant in writing of any fee payable. If the fee is estimated to be over £450, the Authority will discuss refining the request with the applicant with a view to reducing the fee.

In the event that a fee is payable, and the Applicant agrees to pay it, the 20 day response deadline will recommence once payment has been received by the Authority. The Authority will search and locate the requested information once it has received the fee payment. If the fee is not paid within three months of the date of written notification to the Applicant, the Authority may assume that the information is no longer required.

Where a fee is payable, and the Applicant refuses to pay, the Authority may refuse to supply the information requested.

The Authority may charge ‘disbursements’, (i.e. costs ‘directly and reasonably incurred’ in communicating the information to the applicant, e.g. printing / photocopying costs and postage.

These charges will generally apply as follows:

- **On our website**
Free of charge
- **e mail**
Free of Charge
- **Post**
If a document is identified as being free of charge then a single copy of a small document will be provided free of charge. For large documents or more than one copy of a document a charge of 12p per sheet plus postage will be made. We do not provide printouts of pages from other organisations’ websites.
- **By personal inspection**
Information can be viewed free of charge.

5.4 Time for Compliance

The Authority will comply with a request for information promptly and, in any event, not later than 20 working days following the date of receipt of the request.

Depending upon the request for information, the applicant will either be issued with a 'Provision of Information Notice' together with the requested information, or with a 'Further Information Required Notice', an 'Exemption Notice', a 'Refusal Notice', or a 'Fees Notice'.

5.5 Consultation with Third Parties

Where a disclosure of information cannot be made without the consent of a third party (for example, where information has been obtained from a third party and in the circumstances the disclosure of the information without their consent would constitute an actionable breach of confidence such that the exemption at section 41 of the Act would apply), the Authority will consult that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate.

5.6 Refusal of a Request

If the Authority considers the request to be vexatious, repeated or involving costs exceeding the appropriate limit, it will issue the applicant with a '**Refusal Notice**', setting out the reasons for the refusal.

The Authority may refuse to comply with a request for information in the following circumstances:

- Where an exemption in Part II of the Act applies;
- Where the Authority requires further information to identify and locate the information requested and has requested such information but the applicant has failed to supply it;
- Where the request is vexatious;
- Where the Authority has previously complied with an identical or substantially similar request from the same applicant and a reasonable time has not elapsed between compliance and the previous request and the making of the current request;
- Where the Authority estimates that the cost of complying with the request would exceed the 'appropriate limit (i.e. £450 or 18 hours work).

Regarding the last clause, if the applicant wishes to pay for any request taking over 18 hours work, a '**Fees Notice**' will be issued stating the fee will be £450. The applicant then has three months to pay the fee. Unless and until the fee is paid the Authority is not obliged to comply with the request.

Details of how to complain to the Authority about the handling of requests for information and how to apply to the Commissioner for a decision notice will be outlined on all Refusal Notices.

5.7 Exemptions

There are a number of exemptions to the general right of access. There are two categories of exemptions, **absolute** and **qualified**.

Absolute exemptions are as follows:

- Information accessible to the applicant by other means (except in relation to historical records held in public records offices);
- Information supplied by or relating to bodies dealing with the security services (except in relation to historical records held in public records offices);
- Information relating to court records;
- Parliamentary Privilege;
- Prejudice to the effective conduct of public affairs, in so far as it relates to information held by the House of Commons or the House of Lords;
- Personal information, of which the applicant is the data subject;
- Information provided in confidence;
- Information prohibited from disclosure.

Qualified exemptions are as follows:

- Information intended for future publication;
- Only in relation to historical records held in Public Records Offices;
- National security;
- Defence;
- International relations;
- Relations within the United Kingdom;
- The economy;
- Investigations and proceedings conducted by a public authority;
- Law enforcement;
- Audit functions;
- Formulation of government policy;
- Prejudice to the effective conduct of public affairs, except to the effective conduct of public affairs, except for information relating to the House of Commons or the House of Lords;
- Communications with Her Majesty / Honours;
- Health and safety;
- Environmental information;
- Personal information, of which someone other than the applicant is the data subject (third party data);
- Legal professional privilege;
- Commercial interests.

In practice, some of the exemptions are unlikely to apply to the Authority. If the Authority believes the information requested is exempt, it will issue the applicant with an '**Exemption Notice**', stating the nature of the exemption, specifying the exemption in question and stating why the exemption applies.

For absolute exemptions, the Authority will neither confirm nor deny the existence of the information in these cases.

For qualified exemptions, the Authority will consider the '**public interest test**', i.e.

- whether the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the Authority holds the information, or
- whether the public interest in maintaining the exemption from communicating information outweighs the public interest in communicating it.

If the public interest test has been applied and the Authority believes that the information should be treated as exempt, an '**Exemption Notice**' shall be issued to the applicant.

If the Authority, in applying the public interest test, has not reached a decision whether to confirm, deny or disclose, a **'Neither Confirm nor Deny Notice'** will be issued to the applicant explaining that no decision has yet been reached and specifying a date when a decision is expected.

Details of how to complain to the Authority about the handling of requests for information and how to apply to the Commissioner for a decision notice will be outlined on all Exemption Notices.

5.8 Public Sector Contracts

The Authority will ensure that its procurement processes comply with the guidance laid out in the Lord Chancellor's Code of Practice under section 45 of the Freedom of Information Act.

Unless an exemption provided for under the Act is applicable in relation to any particular information, the Authority will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

5.9 Training

The Authority will ensure that its staff and Members are familiar with the requirements of the Act and the Codes of Practice issued under its provisions.

Training will be provided to ensure all staff and Members are aware of the Authority's obligations under the Act and of the rights of individuals making requests under the Act.

All staff and Members will be made aware of the Authority's Publication Scheme. Training will be provided to ensure that staff are aware of how to classify, record and file information to ensure that it can be easily retrieved.

5.10 Monitoring, Review and Evaluation

The Information Governance Manager will review the Authority's arrangements for administering and managing requests for information to ensure compliance with the Act.

The Authority will maintain a log of all requests for information made under the Act and the action taken in respect of each application. This will ensure that requests are being dealt with within the 20 working day limit and to ensure that there is consistency in its application of exemptions.

The log will identify whether the same or similar information has been requested and provided or refused and the reason for refusal. It will also identify recurring requests for the same or similar information not already published and allow the Authority to consider whether the information should routinely be published on the website or in another medium. Performance in dealing with such requests will be monitored by the Information Governance Manager and reported to the Management Team.

6 Responsibilities

6.1 The Authority

Overall responsibility for the efficient administration of the Freedom of Information legislation lies with the Authority.

6.2 Principal Officers and Heads of Department

The Chief Legal and Governance Officer is responsible for determining the policies that apply to information held by the Authority and for establishing policies, procedures and guidance for administering requests for information in compliance with the provisions of the Freedom of Information Act 2000.

Day to day responsibility for administration and compliance with the Act is delegated from the Authority through the Chief Legal and Governance Officer to respective Heads of Department for their service area. Within each Department, an Information Champion will be appointed to undertake administration of data protection and to assist in compliance with the requirements of the legislation on behalf of the Chief Legal and Governance Officer or Head of Department.

6.3 Managers

Managers are responsible for ensuring that all staff under their direction and control are aware of the policies, procedures and guidance laid down by the Chief Legal and Governance Officer and for checking that staff understand and appropriately apply policies, procedures and guidance in respect of the Freedom of Information Act 2000 in carrying out their day-to-day work.

6.4 All Staff

It is the responsibility of all staff to process information in accordance with the Freedom of Information Act 2000 and the policies, procedures and guidance that are laid down by the Authority.

6.5 Information Governance Manager

It is the responsibility of the Information Governance Manager to assist the Authority to ensure the compliance with this policy, to specify the procedures to be adopted and to co-ordinate the activities of designated Information Champions.

The Information Governance Manager is responsible for:

- Maintaining this policy and the Publication Scheme.
- Promoting FOI awareness throughout the organisation.
- Ensuring the general public has access to information about their rights under the FOI Act.
- Administering all requests for information made to the Authority.

- Providing all members of staff within the Authority with advice and assistance in relation to the application of the Freedom of Information Act.
- Reviewing – on a continuous basis - the Authority's records management policies and providing advice directly to staff on records management.
- Providing training to staff so that they understand and can comply with their duties under the Freedom of Information Act and other related legislation.

6.6 Information Champions

The Information Champions are responsible to their Head of Department or Director for:

- Liaison with the Information Governance Manager on all matters concerning administration of the Act.
- To work with the Director or Head of Department to ensure information is created and stored in accordance with the Authority's procedures and processes to enable easy location when required.
- To work with the Director or Head of Department to ensure awareness of the Act within the Authority, and to ensure that the control and handling of information within the Department or Station does not contravene the Freedom of Information Principles or Authority procedures.
- Assisting the Information Governance Manager in the collation and validation of information that is to be included in the Authority's Publication Scheme, and advising the Information Governance Manager of any planned changes to the information or classifications contained within the Publication Scheme.
- Assisting in the response to Freedom of Information requests received by the Authority.

7 Interface between the Freedom of Information Act 2000 and the Data Protection Act 2018 (incorporating GDPR)

Requests for personal information are exempt under the Freedom of Information Act. The exemption divides 'personal data' into two broad categories:

- personal data which relate to an individual who is applying for information (the data subject); and
- personal data which relate to an identifiable living individual other than the applicant (third party data)

These two categories of information attract different levels of exemption.

Requests for personal data which relate to an individual who is applying for information (the data subject) should be treated as a Subject Access Request under the Data Protection Act 2018 (incorporating GDPR), and is therefore an absolute exemption.

Requests for personal data which relate to an identifiable living individual other than the applicant (third party data) should be treated as outlined in the Data Protection Principles to establish whether it is an absolute exemption or a qualified exemption.

For further information on Data Protection, refer to the Authority's Data Protection Policy (CS-POL008).