



NORTH YORKSHIRE
FIRE & RESCUE AUTHORITY

Freedom of Information and Environmental Information Regulations Policy

North Yorkshire Fire & Rescue Service
Headquarters
Thurston Road
Northallerton
North Yorkshire
DL6 2ND

Tel: 01609 780 150

www.northyorksfire.gov.uk

VERSION CONTROL TABLE

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TABLE OF REVISIONS

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01/12/2016	Whole Document	CAO Manager and IG Officer review and amends	S Dale
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CONTENTS

Version Control Table	ii
Table of Revisions.....	ii
Contents.....	iii
1 Introduction	4
2 Scope	6
3 Purpose.....	6
4 Responsibilities.....	6
5 Requests for Information.....	8
6 Cost.....	10
7 Dealing with vexatious and repeated requests for information	11
8 Exemptions and exceptions	11
9 Public Sector Information Regulations 2015 (PSI) and the Act.....	12
10 Appeals and Complaints.....	12
11 Policy Governance	13
12 Legal and Professional Obligations.....	13
13 Review.....	13
14 Associated Documentation	13
15 Appendices	14
Appendix A: Exemptions and Exceptions	14

1 INTRODUCTION

This policy aims to ensure that individuals know how to access information held by North Yorkshire Fire and Rescue Authority (NYFRA) (hereafter known as “the Authority”), in an open and transparent manner; through the Freedom of Information Act 2000 (“the Act”) and Environmental Information Regulations 2004 (“the Regulations”).

The Authority recognises the importance of the Act and Regulations and supports a culture of transparency, openness and accountability. The Authority will use the exemptions in the Act and exceptions in the Regulations (the reasons not to disclose information) only after full consideration and where deemed appropriate.

1.1 The Freedom of Information Act 2000 (FOIA)

The Act is part of the Government’s commitment to greater openness in the public sector. 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.

It became enforceable from 1 January 2005 and applies to Central Government departments their agencies, and many public bodies, including the Authority.

The Act gives a general right of access to all types of recorded information held by public authorities, subject to certain exemptions, and places a number of legal obligations on public authorities.

It ensures;

- public authorities publish certain information about their activities; and
- members of the public are entitled to request recorded information from public authorities.

1.1.1 The Publication Scheme

Section 19 of the Act obliges every public authority to adopt an approved Publication Scheme.

The publication scheme sets out:

- The classes of information published, or intended to be published; and
- The manner in which publication is, or is intended to be made;
- Whether the information is available free of charge or if payment is required.

The Authority has adopted the Information Commissioner’s Office Model Publication Scheme and uses the guidance provided within the Definition Document for Joint Authorities and Boards. The guidance sets out the types of information the Information Commissioner’s Office would normally expect fire and rescue authorities to publish.

The publically available information within the Authority's [website](#), is reviewed monthly and updated when required.

Requests for a paper copy of any document on the Publication Scheme may be made via the Central Administration Office Service Information team (CAOSIT).

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'.

1.2 The Environmental Information Regulations 2004 (EIR)

The Regulations provide public access to environmental information held by public authorities in England, Wales and Northern Ireland. It does this in two ways:

- through routinely publishing environmental information, and,
- in response to requests from members of the public

Environmental information is divided into 6 main areas:

- The state of the elements of the environment such as air, water, soil, land, fauna (including human beings).
- Emissions and discharges, noise, energy, radiation, waste, and other such substances.
- Measures and activities such as policies, plans and agreements affecting, or likely to affect, the state of the elements of the environment.
- Reports, cost-benefits and economic analyses.
- The state of human health and safety, contamination of the food chain.
- Cultural sites and built structures (to the extent they may be affected by the state of the elements and the environment).

1.3 Personal Data

Both the Act and Regulations do not give people access to their personal data, (such as an employee medical file) access to this type of information must be requested under the Data Protection Act 1998 (DPA).

The DPA should be taken into consideration when reading this policy as it works in conjunction with the FOIA & EIR to provide a framework which affords the public access to more information held by local authorities like NYFRA.

1.4 Applicable Legislation

In summary, subject to exemptions:

- The DPA provides access to personal information of which the applicant is the subject;
- The EIR provides access to environmental information held by public bodies; and
- The FOIA provides access to all other information

Further information on Data Protection can be found within the [Data Protection Policy](#) and related procedures.

2 SCOPE

This policy is to be adhered to by all staff and covers all recorded information held by the Authority. This includes documents, e-mails, plans and all other types of recorded manual or electronic information.

The Act does not cover information that is in someone's head. If a member of the public asks for information, and the Authority do not hold the information in recorded form it does not have to create new information or find the answer to a question from staff who may happen to know it.

3 PURPOSE

The purpose of this policy is to:

- Establish an understanding of the nature and importance of the Act and Regulations;
- Ensure that the provisions of the Act and Regulations are adhered to;
- Outline good practice;
- Identify and inform all staff of their responsibilities under the Act and Regulations;
- Encourage uniformity in practice in dealing with requests for information;

so that the Authority ensures compliance with the Act, statutory regulations and associated codes of practice.

4 RESPONSIBILITIES

The Authority undertakes to:

- Provide a general right of access to information held;
- Routinely publish information to maintain compliance against the ICO Model Publication Scheme and the Local Government Transparency Code 2015;
- Where possible, ensure that information that is not included in the publication scheme is available on request;
- Ensure that all requests for information are processed in accordance with the statutory requirements of the FOIA and EIR.
- Log all new requests for information received under FOIA and EIR, and record what action was taken for each applicant;
- Provide advice and assistance where required;
- In cases where information is covered by an exemption or exception, consider whether or not the requested information can be released. If disclosure is refused explain in full why;
- Provide a response within the statutory timescales;
- Ensure procedures are in place to systematically review the Authority's arrangements for administering and managing requests for information;

- Maintain a register of complaints received under FOIA and EIR; and
- Maintain a disclosure log of responses to requests.

4.1 Information Governance Group

The Information Governance Group (IGG), chaired by the Senior Information Risk Owner (Director of Finance and Information) is responsible for reviewing:

- Progress on the Authority's compliance with the FOIA and EIR;
- The continued appropriateness of this policy and associated procedures;
- Issues arising from implementation of the legislation;
- Issues arising from application of exemptions under FOIA and exceptions under EIR;
- Providing updates to Corporate Management Board (CMB).

4.2 Central Administration Office Manager and Information Governance Officer

The Central Administration Office Manager and Information Governance Officer (CAOMIGO) is responsible for:

- Ensuring that the Authority is compliant with the requirements of the Act and Regulations;
- Reporting issues to IGG, Senior Information Risk Owner and in turn the CMB;
- Promoting awareness throughout the Authority;
- Ensuring that the general public has access to information to which they have rights under the Act and Regulations;
- Ensuring that the publication scheme is maintained;
- Investigations into complaints and appeals and
- Liaising with colleagues responsible for information when issues arise.

4.3 Central Administration Office Service Information Team

The Central Administration Office Service Information Team (CAOSIT) will:

- Liaise with colleagues responsible for information handling activities;
- Receive, acknowledge and communicate with the applicant;
- Assess and log all requests;
- Process all requests, arrange for the required information to be sourced;
- Ensure internal responses are received in good time to ensure compliance with the required timescales;
- Collate and review the response, seeking further approval where necessary,
- Anonymise/redact information not to be disclosed and;
- Escalate any issues through the Team Lead and CAOMIGO.

4.4 All employees

All employees are responsible for:

- Forwarding requests for information to CAOSIT to progress;
- If requested to provide information in response to a request, ensuring responses are compiled and presented to the CAOSIT in a timely manner to meet the deadline response date.

5 REQUESTS FOR INFORMATION

5.1 Receiving a request

There are three main ways of making a request for information:

- Directly to the CAOSIT;
- Via the Authority's Freedom of Information webpages;
- To any member of staff (If you receive a request for information follow the guidance provided at 5.6)

5.2 Under the Freedom of Information Act

A request for information under the Act:

- Must be made in writing;
- Must include the real full name of the requestor and an address for correspondence;
- Describe the information that's being requested; but
- Does not need to state that it is being made under the terms of the Act; and
- Must be dealt with promptly and in any event within 20 working days, counting the first working day after the request is received as the first day.

Where a verbal request is received from applicants who by reason of disability or who are unable for whatever reason to communicate well in English, the written note of the telephone request is to be sent to the applicant and once verified and returned by the applicant, would constitute a written and therefore valid request for information.

The Authority reserves the right to;

- verify an applicants identity if it is clear they are using a pseudonym
- seek clarification from the applicant, where the request is not clear, can be read in more than one way or there isn't enough information to locate and retrieve the information being requested.

Where possible, responses to requests for information will be supplied in the format requested by the applicant. If the requested information is, or forms part of, a dataset and on making the request for information the requestor expresses a preference for it to be provided in electronic form, so far as reasonably practicable, the information will be provided in electronic form, capable of re-use. If the dataset is a relevant copyright work, a licence for re-use will be issued alongside the dataset. There may be occasions where the Authority charge for re-use, if this is the case the requestor will be issued a fees notice, and the dataset for re-use will be sent on receipt of payment.

5.3 Under the Environmental Information Regulations

Requests for environmental information are handled by the CAOSIT. The Authority has a legal responsibility to identify that a request has been made and process it accordingly.

Requests can be made verbally or in writing; however, the Regulations state that responses must be made in writing so, the Authority will obtain a name and address for correspondence

when a request is made verbally. In contrast with the FOI Act, a request is valid if the applicant does not use their real name.

The Authority will respond as soon as possible and in any event within 20 working days, counting the first working day after the request is received as the first day.

If due to the complexity and volume of information requested it is not possible to provide the information within this time period, the requestor will be informed it will be 40 working days.

5.4 Made directly to the Central Administration Office Service Information Team

A request may be made in writing to the CAOSIT at:

Central Administration Office – Service Information
North Yorkshire Fire and Rescue Service
Service Headquarters
Thurston Road
Northallerton
North Yorkshire
DL6 2ND

Emailing: cao.serviceinformation@northyorksfire.gov.uk

Or by fax: 01609 788520

For advice and assistance or to verbally request information covered by the EIR, contact the CAOSIT on 01609 780150.

5.5 Made via the website

A request may be made in writing by completing the online [FOI Request Form](#).

5.6 Made to any other member of staff

All members of staff should be familiar with the terms FOI and EIR. Although individuals requesting information do not have to state the request is being made under this legislation.

Should a member of public make contact requesting information, they should be directed to either, the external website's FOI Pages or any member of the CAO Service Information Team.

If you receive a written request for information, the member of staff receiving the request is to;

- Date stamp it
- Scan it and email to cao.serviceinformation@northyorksfire.gov.uk
- Place the original in a sealed envelope marked, confidential, and send it to the CAO Service Information team, Service HQ.

If you do not have a facility to scan the document email CAOSI with details of the request.

6 COST

6.1 Freedom of Information Act

If the information is held, the Authority will estimate whether the cost of complying with the request exceeds the 'appropriate limit' as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation.

The cost limit for complying with a request or a linked series of requests from the same person or group is set at £450 (at a rate of £25 per hour).

The Authority can refuse a request if it estimates that the cost of compliance would exceed this limit. This provision is found at Section 12 of the Act.

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 Act or time spent redacting information not to be disclosed. The Authority may however take account of the costs involved in the following activities:

- determining whether the information is held,
- locating the information, or a document which may contain the information,
- retrieving the information, or a document which may contain the information, and
- extracting the information from a document containing it.

If a refusal notice is issued under Section 12 of the Act, the Authority will provide advice and assistance to the applicant to enable a reformulation of the request, and try and bring it within the cost limit, advising the applicant that this would be treated as a new request.

6.1.1 Aggregating Requests

In the following circumstances the Authority may add together (or aggregate) the costs of answering more than one request made under the Act for the purposes of estimating whether the 'appropriate limit' would be exceeded in relation to those requests:

- Where two or more requests relating to the same or similar information have been made to the Authority either from the same person, or from 'different persons who appear to the Authority to be acting in concert or in pursuance of a campaign' (section 12(4)(b) of the Act); and,
- they are received by the Authority within a space of sixty consecutive working days.

6.2 Environmental Information Regulations

The Regulations do not define a 'reasonable' amount of money or time that a public authority should spend on a request, or a linked series of requests from the same person or group – there is no legal equivalent to the 'appropriate limit' provided under the Freedom of Information Act.

To work out whether the costs of dealing with a request can be treated as manifestly unreasonable under Section 12(4)(b) of the Regulations, the Authority will consider whether

dealing with the request would place unreasonable demands on its resources. It will be necessary to apply the public interest test on these occasions.

7 DEALING WITH VEXATIOUS AND REPEATED REQUESTS FOR INFORMATION

The Authority is not obliged to comply with a request for information if the request is vexatious.

When assessing whether a request is vexatious the Authority will consider whether the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation to the Authority in line with ICO guidance.

If it is concluded that the request is vexatious, the Authority do not have to comply with any part of it, and for the purpose of the Act it needn't even confirm or deny whether it holds the information.

In addition, where the Authority has previously complied with a request for information, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

On these occasions a written refusal notice will be issued.

8 EXEMPTIONS AND EXCEPTIONS

Generally speaking a response to a FOI or EIR should initially confirm whether or not the information requested is held, although there are some exceptions to this.

There are a number of exemptions (FOIA) and exceptions (EIR) which are designed to protect confidential or other information which can be used to refuse a request (in part or fully). In cases where information is withheld, a written refusal notice will be issued. This will set out the exemption(s) / exception(s) applied and the reason why it is engaged. It will also be necessary to apply the public interest test when certain exemption(s) / exception(s) are used.

A full list of these can be found in [Appendix A](#) Exemptions and Exceptions, more commonly used exemptions by the Authority have been highlighted in bold.

9 PUBLIC SECTOR INFORMATION REGULATIONS 2015 (PSI) AND THE ACT

9.1 Scope of PSI

PSI came into force on 1 July 2005 and updated in 2015. The regulations do not change access provisions under the FOIA or EIRs but they do provide a framework for the re-use of information once access has been provided. The provisions of the Data Protection Act are not affected.

The regulations apply to all documents held by public sector bodies except:

- Documents that are exempt from disclosure under the FOIA, EIR and DPA.
- Documents in which the copyright and/or other intellectual property rights are owned or controlled by a third party;
- Documents that fall outside the scope of the public task of the public sector body. This may cover documents that are of a commercial nature;
- Crests, logo's, insignia;
- Personal data.

9.2 Requests for Re-use of Public Sector Information

Information regarding re-use, including the terms and application process are outlined on the Authority website <http://www.northyorksfire.gov.uk/copyright>

10 APPEALS AND COMPLAINTS

Any complaints and/or appeals arising from requests for information from FOI & EIR will be dealt with in accordance with the Authority's Complaints Procedure.

A request may be made in writing to;

FAO: CAO Manager and Information Governance Officer
North Yorkshire Fire and Rescue Service
Service Headquarters
Thurston Road
Northallerton
North Yorkshire
DL6 2ND

Emailing: cao.serviceinformation@northyorksfire.gov.uk

Or by fax: 01609 788520

The Authority will attempt to resolve all issues arising from complaints. If the issue is not resolved to the satisfaction of the applicant then the complaint can be referred to the Information Commissioners Office at; Information Commissioners Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF.

This is the internet version of this document. If you are a member of NYFRS please use the intranet version. Date uploaded 20/3/17.

11 POLICY GOVERNANCE

The following table identifies who within North Yorkshire Fire & Rescue Service is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- Responsible – the person(s) responsible for developing and implementing the policy.
- Accountable – the person who has ultimate accountability and authority for the policy.
- Consulted – the person(s) or groups to be consulted prior to final policy implementation or amendment.
- Informed – the person(s) or groups to be informed after policy implementation or amendment.

Responsible	Director of Finance and Information
Accountable	Chief Executive
Consulted	IGG, CMB
Informed	All Employees, All Temporary Staff, All Contractors etc.

12 LEGAL AND PROFESSIONAL OBLIGATIONS

The Service will take actions as necessary to comply with all legal and professional obligations. For this policy the following legislation applies in particular:

- [The Freedom of Information Act 2000](#)
- [The Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations 2004](#)
- [The Environmental Information Regulations 2004](#)
- [The Data Protection Act 1998](#)
- [Public Sector Information Regulations 2015](#)

13 REVIEW

The CAOMIGO will review this procedure at least every two years, consulting with all parties involved and it will be approved by IGG.

14 ASSOCIATED DOCUMENTATION

This policy refers to the following Legislation, guidelines policies and procedures:

- Freedom of Information and Environmental Information Regulations Procedure
- Data Protection Policy
- Requests Made Under the Data Protection Act (SOP)

15 APPENDICES

Appendix A: Exemptions and Exceptions

The following links provide guidance from the ICO on the use of individual exemptions and exceptions. The most commonly used exemptions (by the Authority) have been highlighted in bold:

FOI Exemptions

Section 21: information reasonably accessible to the applicant by other means

Sections 22 and 22A: Information intended for future publication

Section 23: security bodies

Section 24: safeguarding national security

How Section 23 and 24 interact

Section 26: defence

Section 27: international relations

Section 28: relations within the UK

Section 29: the economy

Section 30: Investigations and proceedings

Section 31: law enforcement

Section 32: information contained in court records

Section 32: information contained in court transcripts

Section 33: public audit

Section 34: parliamentary privilege

Section 35: government policy

Section 36: effective conduct of public affairs

Section 36: record of the qualified person's opinion

Section 37: communications with Her Majesty and the awarding of honours

Section 38: health and safety

Section 39: environmental information

Section 40: personal information

Section 40: access to information held in complaint files

Section 40: information exempt from the subject access right

Section 40: neither confirm nor deny in relation to personal data

Section 40: personal data of both the requester and others

Section 40: requests for personal data about public authority employees

Section 41: information provided in confidence

Section 42: legal professional privilege

Section 43: commercial interest

Section 43: commercial detriment of third parties

Section 43: public sector contracts

Section 44: prohibitions on disclosure

EIR Exceptions

Regulation 12(4)(b): Manifestly unreasonable requests

Regulation 12(4)(c): Requests formulated in too general a manner

Regulation 12(4)(d): Material in the course of completion, unfinished documents and incomplete data

Regulation 12(4)(e): Internal communications

Regulation 12(5)(a): International relations, defence, national security or public safety

Regulation 12(5)(b): The course of justice and inquiries exception

Regulation 12(5)(c): Intellectual property rights

Regulation 12(5)(d): Confidentiality of proceedings

Regulation 12(5)(e): Confidentiality of commercial or industrial information

Regulation 12(5)(f): Interests of the person who provided the information to the public authority

Regulation 12(5)(g): Protection of the environment

Regulation 12(9): Information on emissions

Regulation 13: personal information