



SCOTTISH
FIRE AND RESCUE SERVICE

Working together for a safer Scotland

CORPORATE PLANNING & PERFORMANCE

INFORMATION MANAGEMENT

HANDLING REQUESTS UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 AND THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 – PROCEDURE AND GUIDANCE

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1. INTRODUCTION

The Scottish Fire and Rescue Service (SFRS) is committed to promoting and actively developing the culture of openness, transparency and accountability promoted by the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIR).

Requests for information can come from any person anywhere and can ask for any information held by the SFRS. FOISA and EIR require the Service to respond to requests for information within 20 working days. FOISA requests must be made in a permanent form, such as letter, email etc, but EIR requests may also be made verbally.

The Service will provide advice and assistance to anyone making a request for information. We will keep the requester advised of the position in relation to their request and seek additional information, where required, to ensure information requests are processed timeously and accurately. We will also publish a log of the information provided in response to information requests on the Service website

www.firescotland.gov.uk

The Service will proactively publish information which will be detailed in our Guide to Information – Publication Scheme. This is intended to be a dynamic, living document which lists all the information which we intend to proactively publish. This document will be amended or revised as required to ensure the Service publishes any new classes of information in line with public requirements.

2. PURPOSE

The purpose of this procedure is to set out practical guidelines for processing requests for information under FOISA and EIR. It will also ensure an audit trail following best practice guidelines (Section 60 and 62 codes) and fulfil the requirements of the legislation.

The procedure details the process to be followed, and indicates employee responsibilities, when processing information requests.

3. SCOPE

This policy applies to all SFRS employees and temporary employees who must adhere to this procedure and any other related procedures.

Responsibility for compliance lies with individuals who process subject access requests as part of their role. This procedure is effective from 1 April 2013.

4. RESPONSIBILITIES

The Head of Corporate Planning and Performance has day-to-day responsibility for the management and co-ordination of the procedure and also for ensuring the procedure is available for employees. They will also be responsible for determining a review panel which will be made up of three Managers at an appropriate level who have not been involved in the initial request.

The Freedom of Information/Data Protection Officer (FOI/DP Officer) is responsible for processing all requests for information and responding to the request within the 20 working day time limit from when a request is received.

Line managers have responsibility for raising awareness of this procedure and guidance amongst employees for whom they are responsible and for ensuring that employees are aware of the procedure to be followed if they receive a request for information directly.

Individual employees have responsibility for complying with the requirements of FOISA and EIRs and ensuring that any request for information received by them is immediately passed to the FOI/DP Officer to acknowledge and process within the set timescales.

5. DEFINITIONS

Environmental Information

Information which relates to the air, water, soil, land, plants and animals, energy, noise, waste and emissions. It also includes information about decisions, policies or activities that could affect these aspects of the environment.

Guide to Information – Publication Scheme

Details of the information which SFRS will publish as routine.

Vexatious Requests

The legislation does not define the term vexatious. However, irritation or nuisance caused by the requester or the receipt of a request is not vexatious. Factors which should be taken into account when considering a request to be vexatious include:

- Whether the request has already been rejected on appeal by the Scottish Information Commissioner and the applicant knows this
- There has been unreasonable refusal or failure to accept documented evidence that the information is not held
- There has been unreasonable refusal or failure to identify sufficiently clearly the information required
- The request can be shown to be clearly intended to disrupt SFRS work rather than for the purpose of obtaining information

6. DEALING WITH A REQUEST FOR INFORMATION

Any request for recorded information held by SFRS in any format will be treated as a request under FOISA or EIRs, unless another statutory access right applies. Applicants will not be required to refer to the legislation in any correspondence requesting information. Requests will be accepted from any individual or organisation worldwide.

Any request for personal information from individuals to whom the information relates will be processed under the subject access rights detailed in the Data Protection Act 1998 and in accordance with the [Handling Subject Access Request Procedure](#).

6.1 Requests for routinely published information

A number of requests are for information which we routinely publish through our Publication Scheme. Any member of staff who receives a request for information should first check the [Publication Scheme](#) to determine if the information is already published by SFRS. If the information is already available, the requester should be referred to the website or if the applicant cannot access the website, a copy of the published information should be sent to the applicant.

If the information is not already available, the request for information should be sent immediately to the FOI/DP Officer to process, as the timescales to provide the information start from the date the information request is received.

6.2 FOISA or EIRs

Requests for access to environmental information may need to be responded to under separate environmental regulations (EIRs). On receipt of the request, the FOI/DP Officer will determine which legislation will be applied when processing the request.

This section sets out the key differences and similarities between the EIRs and the provisions of FOISA.

Main differences between FOISA and EIRs

- Requests for environmental information can be in any form
- Additional bodies to those listed in FOISA may be covered by EIR
- A 40 day response time can apply when cases are complex and voluminous
- Fee charging may work differently
- The exemptions work in slightly different ways (eg in EIR there are no absolute exemptions)

Where the two overlap

- Both regimes are fully retrospective
- An authority has 20 working days to respond to requests (in all but the most complex requests for environmental information)
- The Scottish Information Commissioner will enforce both regimes and handle review requests
- Authorities have a common duty to provide advice and assistance
- Authorities are required to proactively publish as much information as possible

Further guidance is available on the website of the Office of the Scottish Information Commissioner at www.itspublicknowledge.info

6.3 Checks prior to logging the request

6.3.1 Before logging the request, the FOI/DP Officer must ensure that the applicant has provided enough information to allow SFRS to process the request. The request should provide clear details of the information they require and include any specific areas of interest. The applicant should provide contact details for returning the information to them.

6.3.2 If the applicant has not provided enough information the FOI/DP Officer should seek clarification as required from the applicant before proceeding. The time limit for response will start from the date the clarification is provided.

6.3.3 Requests for environmental information can be made verbally. If a verbal request is received, the FOI/DP Officer will advise the applicant that SFRS will acknowledge their request with our understanding of the information they are requesting, giving the applicant the opportunity to correct this if it is incorrect.

6.3.4 The FOI/DP Officer will check that the information requested is not available elsewhere, for example, in the Publication Scheme. If the information is within

the Publication Scheme, the applicant should be directed to the location of the publication, or alternatively be provided with a copy of the information.

6.3.5 The FOI/DP Officer will check that the information request is not vexatious or a repeated request. SFRS is not required to respond to a request which is deemed to be vexatious or is a repeated request from the same individual.

6.3.6 Where it is clear that a request for information has been made by the media, the FOI/DP Officer must highlight the request to the External Communication Manager and must provide a copy of the response prior to it being sent to the applicant.

6.4 Logging and processing the request

6.4.1 Following the checks in 6.3 above, the FOI/DP Officer will log the request on the SFRS Access to Information database.

6.4.2 The request will be acknowledged within 3 working days.

6.4.3 The FOI/DP Officer will look to see if the information has already been requested as part of a previous request. If the information is published on the Information Request Log the applicant will be directed to the log for information or supplied with a copy of the information previously provided.

6.4.4 The FOI/DP Officer will email the appropriate department(s) to request the information sought by the applicant. The email will include the detail of the information requested and a timescale of 10 working days to provide the information. Departments will be asked to provide all relevant information and advised that they should not remove any information they are concerned about releasing, but should include any comments, suggestions or concerns they have when providing the information.

- 6.4.5 If the request is a multi-stage application (i.e. where a request involves requesting information from more than one department, but the second department cannot provide the information to their part of the request without the information from the first service) it must be treated as priority to be designated appropriately with the information to be provided by the first department within 5 working days. Both departments will be informed that it is a multi-stage request and that the strict deadline for return of the information must be adhered to.
- 6.4.6 If the information is difficult to source, for example, if it is held in manual records or it will take an excessive amount of time to source, the FOI/DP Officer must determine whether the cost to supply the information requested would exceed the £600 limit as laid down by the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004.
- 6.4.7 If the FOI/DP Officer believes the request may fall into this category, s/he must provide an estimate of the time involved in sourcing the information and the actual hourly rate of the member of staff retrieving the information if this is below £15 per hour. The maximum hourly rate which can be applied is £15 per hour. An example is included below in relation to sourcing statistical information which is not held centrally but could be provided by checking individual personal record files.

1,500 personal record files. Estimated time to check each file = 10 minutes.

15,000 minutes = 250 hours x £14 (hourly rate of staff) = £3,500.

The FOI/DP Officer should contact the applicant as soon as possible to advise the cost of providing the information and ask whether they would like to amend the scope of their request to within the cost of compliance.

For EIR requests, information exceeding £600 is not covered under an exemption, but the requester can be asked to pay the additional costs involved. In this instance the FOI/DP Officer will contact the applicant as soon as possible to inform them that their

request will exceed the amount of information that SFRS is able to supply free. The applicant will be asked if they would like to proceed with the information request as it stands or if they would prefer to narrow the scope of their request and consequently not be charged. If the applicant wishes to proceed with the original request, the FOI/DP Officer will supply a fee notice.

6.4.8 The FOI/DP Officer has responsibility for the progress of the response to the request and must ensure that reminder emails are sent to the appropriate departments timeously.

6.4.9 On receipt of the information from the appropriate department, the FOI/DP Officer will check with the information provider that:

- The information provided is complete (that there is no other information they have still to provide, or if there is, an indication of when that information will be available)
- The information provided is not the original format of the information (any paper originals provided unknowingly may not be returned to the Service)
- Has provided any comments on information they are concerned about releasing.

6.4.10 The aim of FOISA and EIRs is to provide access to information wherever possible. However, it is not always appropriate to release all information held. In this case the data will fall within the scope of one of the exemptions contained within FOISA or an exception contained within EIRs.

The FOI/DP Officer must familiarise themselves with the exemption in the Act and the exceptions in the Regulations will then consider whether any absolute exemptions apply. An absolute exemption covers information otherwise accessible (e.g within the publication scheme), prohibitions on disclosure, confidentiality, court records and personal information.

There are non-absolute exemptions where a public interest test to establish whether the information should be disclosed or withheld will require to be applied.

Non-absolute exemptions include information which is intended for future publication, information which constitutes a trade secret or which would be likely to prejudice substantially the commercial interests of any person including a Scottish local authority and information the release of which would substantially prejudice the effective conduct of public affairs.

The public interest test is where SFRS must decide whether the public interest in disclosing the information is outweighed by the public interest in withholding the information by claiming the exemption. In applying this test there are some things that SFRS should not take into account for example possible embarrassment to officials, loss of confidence in the authority, seniority of persons involved and the risk of the applicant misinterpreting the information.

While the exceptions contained in the EIRs largely follow the same pattern as those under FOISA, all the exceptions under the EIRs are subject to a public interest test.

6.5 Responding to the Applicant

Once the FOI/DP Officer is confident that all information has been received to allow a response to be made and considered any exemption or exception which may apply and applied the public interest test, a letter of response will be drafted to the applicant. The letter will contain details of the information provided and the detail of any exemption or exception which has applied along with consideration of the public interest test.

6.6 Logging and Audit of each Request

All information in relation to the applicant and the nature of the request must be recorded in the Access to Information Database. All steps of the request should be recorded in the audit trail section of the database, to include meetings, notes on decisions, date information requested from individual departments etc. All paper correspondence will be

scanned and stored within the system. All emails will be saved into the system and linked to the individual request on the database.

7. PROCEDURE FOR DEALING WITH REQUEST FOR REVIEW

Under Section 20 of FOISA and Section 16 of EIRs, an applicant who is dissatisfied for whatever reason with the way in which SFRS has dealt with their request for information may ask SFRS to review its actions and decision in relation to that request.

This is known as a request for a review and circumstances where this may arise include:

- Where some or all of the information is exempt and has not been released
- Where SFRS has failed to respond to the request within the statutory 20 working days limit
- Where the applicant has received some information but feels that there has been an error or not all of the information requested has been supplied.

In order to ensure a completely independent review process, no one directly connected with the initial response will be involved in the request for review. SFRS has 20 working days to comply with a request for review from the date of receipt.

7.1 Receipt of a request for a review

The FOI/DP Officer will immediately log the request for the review in the database.

The FOI/DP Officer will send an acknowledgement letter within 3 working days of receipt of the request and forward a copy of the request for review to the Head of Corporate Planning and Performance. This letter will acknowledge receipt of the request for review and give the date of the statutory 20 working days deadline.

The Head of Corporate Planning and Performance will determine a review panel which will be made up of three Managers at an appropriate level who have not been involved in the initial request.

The FOI/DP Officer will provide members of the panel with a record of the audit trail and a copy of all documents relating to the request within 5 days of receipt of the request.

7.2 Investigation by panel members

Members of the review panel will examine the record and documents to get the background to the request, the action taken, and the reasoning behind the decision making. The panel members will also gather any other necessary information as they consider pertinent, such as the opinion of the department providing the information any comments they have made in relation to the disclosure of the information. The panel will also consider the application of the public interest test if this was used.

The panel should sit within 15 working days of receipt of the request to discuss their findings in relation their investigation and to reach a conclusion.

7.3 Conclusion and response

Once the panel have met and have reached a conclusion following their investigation, a letter of response will be provided to the applicant which will explain the background to the request for the review and provide a clear explanation of the conclusion reached with justification.

Where applicable, any information originally withheld, which the panel consider should be released, will be included at this stage. Similarly, the applicant will be informed of confirmation that the exemption originally claimed will be maintained.

The applicant will be provided with contact details for the Scottish Information Commissioner should they wish to request a further review.

All information and correspondence in relation to the review panel will be recorded in the database.

8 ASSOCIATED DOCUMENTS/REFERENCES

Will be completed and updated as documents are available but should include as a minimum:

[Access to Information Policy](#)

[Guide to Information \(Publication Scheme\)](#)