



INFORMATION GOVERNANCE

FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REQUESTS HANDLING PROCEDURE

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SCOTTISH
FIRE AND RESCUE SERVICE

Working together for a safer Scotland

STRATEGIC PLANNING, PERFORMANCE AND COMMUNICATIONS

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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). It enables members of the public to find out more about the activities and decisions of public authorities and to ensure that services are delivered properly and efficiently.

Access to information is principally governed by FOISA, the EIR and the Data Protection Act 2018 (DPA). All three provide rights of access to information, with limited exceptions. In effect, the three pieces of legislation work together, the EIR enabling access to environmental information, DPA enabling access to one's own personal data and FOISA enabling access to all other information.

Requests for information can come from any person anywhere and can ask for any information held by 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. Applicants will not be required to refer to the legislation in any correspondence requesting information. Please refer to [SFRS Subject Access Request](#) for requests for personal data under the DPA.

2. PURPOSE

The purpose of this procedure is to provide guidance and support to staff and 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 and dealing with information requests.

3. POLICY AND PURPOSE

FOISA and EIR give members of the public a general right of access to recorded information (both paper and electronic) held by SFRS, subject to certain exemptions. This means that any person who makes a written request has the right to:

- Be informed in writing whether the Service holds the information requested (this is known as the 'duty to confirm or deny'); and
- Have access to that information which the Service holds (subject to any exemptions which may apply).

The presumption is always that information will be disclosed.

The Act is fully retrospective, so all information held by the Service can be requested. It is a criminal offence to destroy information with the intent of preventing disclosure following a request.

Information requests are an opportunity to engage and communicate with stakeholders. Where needed, responses should inform, assist and advise requesters, by providing explanations and context that help them to understand and interpret the information disclosed or why it is being withheld.

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.

The Service will proactively publish information which will be detailed in our [Guide to Information – Publication Scheme](#). This document will be amended or revised, as

required, to ensure the Service publishes any new classes of information in line with public requirements.

4. RESPONSIBILITIES

The Director of Strategic Planning, Performance and Communications will be the representative for Freedom of Information / Environmental Regulations Information issues when reporting at Board level.

The Head of Communications and Engagement has overall responsibility for management and co-ordination of the procedure.

The Information Governance Manager 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 ensuring all Requests for Reviews are carried out in line with legislation.

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

The Communications Team will be made aware of requests for information by media companies and the press and any other requests that, when responded to, may have an adverse impact on the reputation of the Service.

Directors / Assistant Chief Officers / Deputy Assistant Chief Officers / Local Senior Officers / 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. All requests must be forwarded to the FOI/DP Officers. They also have the responsibility of ensuring that every effort is made to collate all requested

information and provide it to the FOI/DP Officers in a timely manner in line with the procedure. There is a timescale of **10 working days** to provide the information back to the FOI Team. Departments will be asked to provide **all** relevant information and should not remove any information they are concerned about releasing but should include any comments, suggestions or concerns they have when providing the information to the FOI/DP Officers.

All employees are obliged to adhere to this procedure. They must also ensure they are aware of the implications of this policy and of the process for the central handling of FOI requests.

FOI requests received by all staff must be forwarded to the SFRSInfogov@firescotland.gov.uk email box immediately to allow SFRS to adhere to statutory timescales. Where a request is received by hard copy letter, the date of receipt by the Service should be clearly marked on the request letter and this should be scanned and sent to the above email address.

Note: the Service has only 20 working days to respond to a request for information. Where staff are unsure of whether a request for information needs to be logged as an FOI request, they must contact a member of the Information Governance Team for advice.

5. 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 DPA and in accordance with SFRS policy.

5.1 Requests for Routinely Published Information

A distinction must be made between requests for information and routine correspondence. Requests for information that can be provided without any question, e.g. leaflets, other Service material, recruitment information, press releases, etc., should be treated as business as usual.

All other requests should be forwarded to the FOI Team to allow standardised responses in line with the legislation and efficient monitoring and auditing.

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

It is also important to point out that FOI/EIR only covers requests for **recorded** information and does not cover instances where explanations, opinions, comments, interpretations or unrecorded discussions are requested.

5.2 FOISA or EIRs

Requests for access to environmental information may need to be responded to under separate environmental information regulations (EIRs). On receipt of the request, the FOI/DP Officers 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 is different; and
- The exemptions work in slightly different ways (e.g. 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; and
- 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/Law/EIRs/EIRsDifferencesEIRSandFOISA.aspx

5.3 Receipt of a Request

Before logging the request, the FOI/DP Officers 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.

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.

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.

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.

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.

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 Communications Manager and will provide a copy of the response prior to it being sent to the applicant.

5.4 Re-use of Public Sector Information Regulations 2015

SFRS complies with the Re-use of Public Sector Information Regulations 2015. We encourage the re-use of the information that we produce, hold and disseminate under our public task. We are open and transparent and treat all applications to re-use in a fair and non-discriminatory way. Should you require further information in relation to this, please contact the Information Governance Manager.

5.5 Duty to Advise and Assist

All public bodies have a duty to assist applicants in requesting information. This could involve assisting applicants in making their requests by suggesting what information is available and/or contacting applicants who have made broad requests in order to specify the information required so that it may be identified.

5.6 Logging and Processing the Request

Following the checks above, the FOI/DP Officer will log the request on the Microsoft Dynamics case management system.

The request will be acknowledged within 3 working days.

The FOI/DP Officer will look to see if the information has already been requested as part of a previous request. If the information has been disclosed previously, the requester should be supplied with a copy of the information previously provided.

The FOI/DP Officer will email the appropriate department(s) Single Point of Contact (SPOC) 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 to the FOI/DP Officers. SPOCs will be provided with a separate procedure and training to support this.

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 department), it must be treated as a 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.

If it is clear that the department contacted is not the appropriate department to respond to the request, then the FOI/DP Officer must be contacted by return to allow time to redirect the request.

5.7 Charging

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.

If the relevant department 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 (approximately one week's work). Discussions should then be held with the FOI/DP Officer to agree this.

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, if this is possible.

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.

5.8 Information Provided

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); and
- They provided any comments on information they are concerned about releasing.

5.9 Exemptions / Exceptions

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 and 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.

5.10 Public Interest Test

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.

5.11 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.

5.12 Logging and Audit of each Request

All information in relation to the applicant and the nature of the request must be recorded in the Microsoft Dynamics System. All steps of the request should be recorded in the system, 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 system.

6. DEALING WITH A REQUEST FOR A 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; and
- 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.

6.1 Receipt of a Request for a Review

The request for a review must be made no later than 40 working days following the expiry of the period for responding to the request for information.

The FOI/DP Officer will immediately log the request for the review in the system and send an acknowledgement letter within 3 working days of receipt of the request. This letter will acknowledge the request for review and give the date of the statutory 20 working days deadline. A copy of the request for review must be sent to the Information Governance Manager.

The Information Governance Manager will ensure all appropriate documentation and a record of the audit trail is made available to the Review Officer within 5 days of receipt of the request.

6.2 Investigation by Review Officer

The Review Officer will examine the record and documents to get the background to the request, the action taken and the reasoning behind the decision making. They 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, and consider the application of the public interest test, if this was used.

6.3 Conclusion and Response

Once the Review Officer has 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 Review Officer considers 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 will be recorded in the system.

7. APPLICATION FOR A DECISION

If a requester is still unhappy after the review stage, they can make an appeal to the Office of the Scottish Information Commissioner (OSIC), as long as it is within six months of receiving a review response. Any Application for Decision received by SFRS should be forwarded to the Information Governance Manager immediately.

8. MONITORING

Requests for information and review should be dealt with promptly and in the shortest reasonable time. The aim is to make information available at the soonest possible point. Section 10(1) of FOISA (and regulation 5(2) of the EIRs) make it clear that the 20 working days for a response is a **maximum** and that public authorities are required to disclose information as soon as they are in a position to do so. Regulation 7 of the EIRs allows for the timescale to be extended but we will only seek to extend the time period in the most complex and voluminous cases.

The FOI/DP Officer has responsibility for the progress of responses to requests/reviews and must ensure that reminder emails are sent to the appropriate departments timeously and followed up when necessary.

SFRS will monitor performance and publish statistical information to both the SFRS Information Governance Group and the Office of Scottish Information Commissioner on a quarterly basis.

9. FURTHER INFORMATION

If you require further information in relation to FOI or EIR or this policy, please contact infogov@firescotland.gov.uk

10. ASSOCIATED DOCUMENTS / REFERENCES

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

[Subject Access Request Form](#)

[Office of the Scottish Information Commissioner \(OSIC\)](#)

[Data Protection Act 2018](#)

[Environmental Information \(Scotland\) Regulations 2004](#)

[Freedom of Information \(Scotland\) Act 2002](#)

[Freedom of Information \(Fees for Required Disclosure\) \(Scotland\) Regulations 2004](#)

[Re-use of Public Sector Information Regulations 2015](#)