

**WEST MIDLANDS FIRE SERVICE
FREEDOM OF INFORMATION ACT 2000**

1. STRATEGY

It is the strategy of the West Midlands Fire and Rescue Authority (hereinafter to be known as the Authority) and the West Midlands Fire Service (hereinafter to be known as the organisation Brigade) to comply with the Freedom of Information Act 2000.

The Authority will comply with the legislation of the Freedom of Information Act 2000 in line with the ethos of the Act to promote openness and accountability within public authorities. The Authority will publish and maintain a 'Publication Scheme' and ensure that procedures and processes are in place in order to respond efficiently and effectively with requests for information under the Freedom of Information Act.

The Authority will ensure that requests are responded to according to the legislative deadlines and where appropriate exemptions are fully justified.

2. PROCEDURES

2.1 The Freedom of Information Act 2000

The Freedom of Information Act 2000 gives people the right to request information from public authorities and is intended to promote a culture of openness, transparency and accountability amongst public sector bodies and enable the public to better understand how public authorities carry out their duties, how they make decisions and how they spend their money.

The main features of the Act are:

- A general access to information held by public authorities.
- A duty on public authorities to adopt publication schemes.
- Exemptions from the duty to provide certain categories of information.
- A requirement on public authorities to exercise discretion and balance the requirement to provide information with a duty to withhold it (the 'public interest test').
- Arrangements in respect of costs and fees.
- Arrangements for enforcement and appeal.
- Guidance within Codes of Practice.

A requirement of the Act is for each public authority to produce and maintain a 'Publication Scheme'. The Publication Scheme sets out what information is already available in a set format how that information can be requested and whether there is a charge for providing that information.

The Authority's Publication Scheme is published on the Internet site www.wmfs.net and on the Intranet.

It is the responsibility of the Data Protection Officer to maintain and update the scheme.

2.2 Rights of access

Any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and to have that information communicated.

This is commonly described as 'the duty to confirm or deny that information is held, and to provide it'.

There are six reasons why a public authority may not have to meet this provision.

- 1) Where it is possible that further information is needed before the request can be answered.
- 2) An exemption applies.
- 3) The public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 4) When any fee is charged, and that fee is not paid within three months of fees notice being issued.
- 5) If the public authority estimates the cost of complying with the request would exceed the 'appropriate limit'.
- 6) If the request is vexatious or repeated.

Under some exemptions, certain conditions have to be met before the duty to confirm or deny is not applicable. The duty to confirm or deny does not arise when information is already accessible or when information is intended for future publication.

2.3 Requests for information

A request for information is 'a request which is in writing, states the name of the applicant and an address for correspondence, and describes the information requested.'

There are three essentials that have to be met by anyone requesting information under the Act:

- 1) Put it in writing.
- 2) Name and address of applicant (email address is acceptable).
- 3) Description of the information requested.

Some other features of requests for information are:

- A request is treated 'as in writing' where the text is transmitted electronically and is received in legible form. It should also be capable of being used as subsequent reference by the Authority.
- The applicant does not have to mention the Act itself when making the request.
- An applicant has to identify him/herself for the purposes of the request, but the identity of the applicant is of no concern to the Authority except in the case of vexatious or repeated requests and personal information (see paragraph 3.4).
- The applicant need not be a United Kingdom national or resident. A request can be made by anybody, anywhere in the world.
- There is no restriction on the reasons why the information is being requested and the Authority cannot make enquiries as to why the information is being sought or what it will be used for.
- The Authority can request further information from the applicant in order to identify or locate the information.
- There are no formal requirements on applicants to describe the information in a certain way, e.g. by reference number, but the description has to be sufficient to be able to locate and identify the information.
- The information communicated to the applicant has to be the information held at the time the request was received. Account may be taken of amendments or deletions that would have been made in the normal course of events.
- The Authority must help the applicant to frame a request for information if they are not able to do so on their own, for example, writing down a request on the telephone and then confirming with the applicant the contents of the request are accurate.
- As soon as verification of the request is received the Authority has 20 working days to comply with the request.

Each Authority can decide whether to charge for providing information that will satisfy the request, for example if there are substantial administration costs to gather and reproduce the information.

If a request for information is received in a department, section or on a station it must be date stamped and forwarded immediately for the attention of the Data Manager, Data Management section, marked 'Freedom of Information Request'.

The Data Manager will be responsible for recording the request, obtaining the information from the relevant department, charging any appropriate fees and ensuring that the request is answered within the timescale.

The Data Manager will liaise with the appropriate section or department concerned for assistance in providing the information requested. It is imperative that information is provided in a timely manner to ensure that the specified timescales are met.

The Data Manager may contact you for information about your station, section or team: it is essential that you provide the information as requested – **you must not withhold information because you do not agree with the request, or feel it is unfair**. You can highlight your concerns with the Data Manager upon providing the information, who will determine whether an exemption may apply.

2.4 Important legislation to consider

The Freedom of Information Act 2000 needs to be considered in conjunction with the Environmental Information Regulations 2004. Both sets of legislation aim to encourage more open and accountable government by establishing a general statutory right of access to official records and information held by public authorities.

This complements and is influenced by the Data Protection Act 1998, as generally information which involves, or can identify an individual is exempt. However some information relating to more senior employees within the organisation such as the salary is published routinely on the internet as part of the government's local transparency agenda.

Any request for information needs to take into consideration the requirements of all three pieces of legislation. All requests of this nature must be forwarded to the Data Manager at Headquarters who will establish what legislation any request may come under, and provide a formal response.

2.4.1 Exemptions

Under Freedom of Information, there is a presumption of openness, irrespective of the date of the information, unless an exemption applies. There are two categories of exemptions:

- 1) Public interest – those in which the public authority seeking to reply on the exemption has to establish that the public interest in maintaining the exemption outweighs the public interest in disclosing information.
- 2) Absolute – where no public interest test is required.

There are a number of exemptions to providing data under the Freedom of Information Act but the main ones most likely to apply are:

- Already accessible – Absolute.
- Information intended for future publication – Absolute.
- Information provided in confidence – Absolute.
- Law Enforcement – Public Interest.
- National Security – Public Interest.
- Commercial Interests – Public Interest.

The Data Manager will advise on the full range of exemptions if required and will consider whether an exemption applies on receipt of a request for information under the Freedom of Information Act.

3. CROSS REFERENCES

[Standing Order 2/16](#) Data Protection Act 1998

[Standing Order 1/10](#) The Environmental Information Regulations 2004

Information Commissioner's Office website www.informationcommissioner.gov.uk.

4. KEY CONSULTEES

Minor amendments only have been made to this Order and consultation was not necessary.

5. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment was not necessary as there is no impact on people.

6. OWNERSHIP

This order did not require Authority or Corporate Board approval.

7. RESPONSIBILITY AND REVIEW/AMENDMENT

7.1 Responsible Corporate Board Member/Department

Director Resources.

7.2 Created/fully reviewed/amended

This Order has been reviewed and amended by the Data Manager in September 2013.