

WEST MIDLANDS FIRE SERVICE
ENVIRONMENTAL INFORMATION REGULATIONS 2004

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) to comply with the Environmental Information Regulations 2004.

The Authority will comply with the legislation of the Environmental Information Regulations 2004 in line with the ethos of the Regulations to promote openness and accountability within public authorities. The Authority will ensure that procedures and processes are in place in order to respond efficiently and effectively to requests for information under the Regulations.

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 Environmental Information Regulations 2004

The Environmental Information Regulations 2004 complement the Freedom of Information Act ([Standing Order 1/5](#)) and intend to provide a culture of openness and accountability amongst public sector bodies and enable the public to access information about any impact upon the environment of policies, processes and procedures.

In some ways, the Regulations are more encompassing than the Freedom of Information Act and many everyday requests for information may come under the definitions of the Environmental Information Regulations. Environmental Information is defined as information about:

- State of air, water, soil, land, landscape, natural sites.
- Substances, energy, noise, radiation, waste – and other releases into the environment.
- Policies, legislation, plans, etc. affecting above elements.
- Reports on implementation of environmental legislation.
- Economic analyses of environmental measures.
- Human health and safety, contamination of food chain.
- Effect of above elements on living conditions, cultural sites, built structures.

As many practices or events can impact upon the above elements the area covered by the Regulations is extensive.

2.2 Rights of access/scope of regulations

Any person making a request for environmental 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'.

The Environmental Information Regulations provide access in line with the Freedom of Information Act 2000 ([Standing Order 1/5](#)). There are, however, some differences which make the regulations more extensive.

The main differences are:

- The range of bodies covered by the EIR is wider to allow for consistency with the EC Directive and includes public utilities and certain public private partnerships and private companies, such as those in the water, waste, transport and energy sectors.
- Requests for environmental information need not be in writing.
- The information held by a public authority includes holding information held on behalf of any other person.
- The duty to provide advice and assistance requires a public authority to respond within 20 working days when requesting more particulars from the applicant.
- The time limits for responding to a request apply to ALL requests including those involving consideration of the public interest. Regulation 7 allows for an extension from 20 to 40 working days for complex and high volume requests.
- No exception is made for requests that will involve costs in excess of the 'appropriate limit' within the meaning of the Fees Regulations made under sections 9, 12 and 13 of the Freedom of Information Act. Except in specified limited circumstances, ALL requests must be dealt with and any charges imposed must be reasonable.
- There are differences in the exceptions available under Environmental Information Regulations and the exemptions available under Freedom of Information Act.
- The requirement for public authorities to have in place a complaints and reconsideration procedure to deal with representations alleging non-compliance with the Environmental Information Regulations is mandatory.

As the request does not have to be in writing, any verbal request for information of an environmental nature must be considered under the Regulations.

2.3 Requests for information

Requests for information fall in line with the Freedom of Information Act 2000 ([Standing Order 1/5](#)), but as requests can be verbal, it is important to document the name and correspondence address of the individual requesting the information, in order to reply to the request. (Email address is acceptable).

Some other features of requests for information are:

- The applicant does not have to mention the Regulations 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, for example, 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 themselves, 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 (40 days for complex requests).

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 forwarded immediately for the attention of the Data Manager, Data Management Section, marked 'Environmental 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 Data Controller of the 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.

2.3.1 Exceptions

Under the Environmental Information Regulations there is a presumption of openness, irrespective of the date of the information unless an exception applies. There are two categories of exceptions:

- 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 exception outweighs the public interest in disclosing information.
- 2) Absolute – where no public interest test is required.

There are a number of exceptions to providing data under the Environmental Information Regulations. A public authority may refuse to disclose information to the extent that:

- It does not hold that information when an applicant's request is received.
- The request for information is manifestly unreasonable.
- The request for information is formulated in too general a manner and the public authority has complied with regulation 9 (that is, provided advice and assistance).
- The request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
- The request involves the disclosure of internal communications.

Other circumstances which may provide an exemption consider whether disclosure of the information would adversely impact on:

- International relations, defence, national security or public safety.
- Course of justice.
- Intellectual property rights.
- Legal confidentiality of organisation's proceedings.
- Protection of legitimate economic interests.
- Information provided voluntarily but with no consent to its disclosure.
- Protection of the environment the information relates to.

The Data Manager will advise on the full range of exceptions if required and will consider whether an exception applies on receipt of a request for information under the Environmental Information Regulations.

3. CROSS REFERENCES

[Standing Order 1/5](#), Freedom of Information Act 2000

[Standing Order 1/17](#), The Re-use of Public Sector Information Regulations 2005

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

Information Commissioner's Office website

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 by the Data Manager, September 2013.