

1254 - Freedom of Information and Environmental Information Regulations Policy

The Freedom of Information Act (FOI) and the Environmental Information Regulations (EIR) provide people with a right of access to certain Service information and specific environmental information.

Providing information also helps us to engage with the public, and can improve accountability and decision making.

For simplicity and efficiency Cheshire Fire and Rescue Service has adopted a single procedure for receiving, processing and monitoring FOI and EIR requests.

This policy explains the Service procedures and the main requirements of information access legislation.

OWNER	Information Compliance Manager
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CROSS REFERENCES

FOI Act and Codes of Practice

Environmental Information Regulations

Transparency Code of Practice

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PART 1 – POLICY SECTION

Policy Statement

Cheshire Fire and Rescue Service will fully uphold the spirit of the Freedom of Information (FOI) Act and Environmental Information Regulations (EIR) by applying the principles of the legislation and the related Codes of Practice (for records management and for answering requests), and by publishing as much information as possible electronically.

This will make information more easily available both internally and externally, hence involving stakeholders and the public more directly with the Fire Service, thereby improving our performance and service delivery.

Specific Commitments

The Service will proactively publish information under the mandatory Publication Scheme, and provide a request procedure for information that is not already available.

Although FOI and EIR are separate legislation and differ in some matters, for reasons of effectiveness the Service will utilise the internal FOI processes as far as possible to process all information requests.

The Service will recognise and comply with any Data Protection requirements when responding to any FOI requests which include personal data.

Ownership/Monitoring

Ultimately the Information Commissioner is responsible for enforcing both the FOI and EIR. His powers include issuing decision or enforcement notices and issuing fines.

The Director of Governance and Commissioning currently holds overall responsibility for information matters for the organisation. They will approve refusals and decide on the public interest where required.

The Joint Corporate Services Information Compliance Manager is responsible for overseeing FOI and EIR requirements, maintaining the publication scheme, providing support to managers, and monitoring compliance.

The Executive support team are responsible for coordinating and administering the request process and retaining a full audit trail and records of all correspondence.

Managers are responsible for responding promptly to requests, identifying any potential exemptions, and publishing the required information detailed within the publication scheme.

PART 2 – PROCEDURE SECTION

1 Mandatory information – FOI Publication scheme and EIR

- The Joint Corporate Services Information Officers will develop and monitor the Service publication scheme. This will include the mandatory environmental information and Transparency agenda requirements.
- Managers must publish the required information, and maintain the information as accurately and up-to-date as possible.

2 Requests

- The Executive Support team will coordinate requests centrally on a daily basis, issuing requests to nominated departmental managers. This includes acknowledging requests within 3-5 days, issuing reminders to managers, advising the Joint Corporate Services Information Officer of any issues, and keeping records of all communications.
- Assistance should be provided to applicants if needed, for example by sign posting information on the website, explaining how to submit or refine a request, and supporting any equality requirements identified. Narrow interpretation of terminology is not in the spirit of the legislation.
- Requests can be made for any recorded information in any format provided it is not already published on our publication scheme.
- Requests about incidents, training, and transport could include environmental information and therefore the EIR requirements may apply. See Guidance section for details.
- FOI requests must be in writing, whilst EIR may be verbal. Requests do not need to cite any legislation. All EIR refusals require consideration of the public interest test which favours disclosure for EIR matters.

3 Responses

- Generally responses must confirm or deny if we hold the information, and provide the information in re-usable format or the format specified if possible.
- The production and quality of the response is the responsibility of the Head of Department or nominated deputy.
- For efficiency reasons responses should be written as an email if possible, using the template provided within the Guidance section.
- Request must be answered promptly, within the 10 day target if possible, but within 20 working days. In exceptional complex cases 40 days may be taken under EIR.
- If information involves other agencies they should be consulted prior to deciding whether to release or withhold the information. The final decision rests with the Service.
- DPA principles must be applied prior to releasing any personal information.
- Guidance on FOI, EIR and DPA requests is provided in the flowchart in the Guidance section, and support can be obtained from the Joint Corporate Services Information Officer. If necessary a response will be provided which complies with both FOI and EIR requirements

4 Refusals

- Managers should consult the Joint Corporate Services Information Officer if there are any concerns about releasing information.
- An entire request can be refused if it is estimated that it will exceed 18 hours to find and retrieve the information, if the request is vexatious, or repeats a previous request from the same person within an appropriate timescale.
- There are also 23 FOI exemptions and 12 similar EIR exceptions which permit some relevant sections of information to be withheld.
- Refusals require an authorised refusal notice, to include the public interest test if required and details about the right to appeal. All EIR exceptions require a public interest test, and under EIR the test favours disclosure.
- The Joint Corporate Services Information Officer will complete and document any public interest tests required.
- The Monitoring Officer as the “qualified” officer for the Service must approve any refusal relying on section 36.

5 Review, complaints and appeals

- Applicants may request a review about the information provided, a refusal or the way a request was handled.
- Reviews should normally comprise a thorough reconsideration of the decision and handling of the request.
- Reviews should be completed within 20 working days, by someone independent and senior to the original decision maker, and knowledgeable about FOI/EIR.
- Reviews will generally be completed by the Joint Corporate Services Information Compliance team.

6 Charges and fees

Information will be supplied free of charge, unless:-

- Charges are permitted under other legislation and detailed on the Service publication scheme, or,
- It is estimated that it will take more than 18 hours to locate and retrieve the information then the Service can refuse the request and advise the applicant how to refine the request. Alternatively, management may choose to charge a fee if the response will exceed 18 hours work, calculated at a standard rate of £25 per hour.
- Under EIR a request cannot be refused solely on the grounds of cost, but may refuse the request if the work required to respond can be classed as “manifestly unreasonable.”

PART 3 – GUIDANCE SECTION

1 Definition of environmental information

The EIR provides access to environmental information using a broad definition of:

- the state of the elements of the environment, such as air, water, soil, land;
- 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-benefit and economic analyses used in these policies, plans and agreements;
- the state of human health and safety, contamination of the food chain and cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment).

2 FOI Exemptions

The summary below is provided to assist managers to identify possible exemptions, but managers must consult the Joint Corporate Services Information Officer.

Absolute exemptions

S 21 Information accessible by other means - e.g. business as usual, published under FOI or other statutory route.

S 23 Information supplied by or relating to bodies dealing with security matters

S 32 Court records to avoid superseding court and tribunal access regimes

S 40 Personal information – is absolute if about the person making the request, or relies on the public interest if about a third party

S 41 Information provided in confidence – provided the information was obtained from on a voluntary basis from a third party, has a quality of confidence, and any breach would be actionable

S 44 Other legal prohibitions on disclosure - defers to existing statute, eg Human Rights

Qualified exemptions – subject to the public interest test

S 22 Intended for future publication - within a reasonable timetable

contact us by email at freedom-of-information@cheshirefire.gov.uk or write to the Information Manager at the address below. We will endeavour to assist you, and then advise you how to progress a formal review if you require.

4 Guide to Publication scheme

The publication scheme is published on the Service website at www.cheshirefire.gov.uk/about-us/key-documents/freedom-of-information . It complies with the Information Commissioner definition document requirements and is maintained by the Information Officers, Information Compliance Team.

5 Useful response phrases

Incident costs

We regret that we do not record the cost per incident, and we do not have any valid estimates, mainly due to the varying equipment and resources required at individual incidents.

Press/Media

If you decide to run an article as a result of the information supplied, please contact the Communications Department for a comment and any further information.

Bariatric rescues

In order to respond to your request we have searched our records for incident recording system for information referring to “bariatric” rescues. This is the term used by the Ambulance Service, and does not have a standard definition within the Fire and Rescue Service.

Already published

The Freedom of Information Act provides an exemption from the requirement to respond to requests for information that is already published. You will appreciate that we must operate efficiently and ensure we maximise use of public money. We would therefore ask you to assist us by visiting our website using the link provided in our original response for information that is already published.

Not held

We do not hold this data. Our systems are not set up to collect this type of data and there is no requirement for and no benefit to us in collecting this data. We are therefore unable to assist you with this part of your request.

Information security

I can confirm that CFRS hold the information that you seek, however, we are refusing to provide all information that we hold for security reasons, under the Freedom of Information Act 2000 exemption at S31(1)(a) – *disclosure would be likely to prejudice prevention or detection of crime*

We are applying this exemption in order to protect the Service and wider society from potential crime and its consequences.

The Information Commissioner's Office (ICO) guidance states that:
'There is a clear public interest in protecting society from the impact of crime. The greater the potential for a disclosure to result in crime, the greater the public interest in maintaining the exemption. The victims of crime can be both organisations and individuals. Although there is a public interest in protecting both, there is a greater public interest in protecting individuals from the impact of crime.'

Excessive burden

This part of the request will cause a disproportionate or unjustified level of disruption due to the broad scope and timeframe and lack of clear purpose. It will impose a significant burden on us to sift through substantial amounts of information to isolate and extract any relevant details.

>>>>A further burden would be incurred due to the time that would need to be spent considering any exemptions and redactions that would be necessary due to the sensitive nature of the subject.>>>>

The Upper Tribunal acknowledged the need to protect organisations from unreasonable requests in the case of [Information Commissioner vs Devon County Council & Dransfield \[2012\] UKUT 440 \(AAC\), \(28 January 2013\)](#).

The Information Commissioners Office (ICO) also provide guidance on "Dealing with Vexatious requests". We are therefore applying the s14 Freedom of Information Act exemption to this part of your request.

Aggregate requests and in excess of time limit

I would like to draw your attention to the fact that we have provided this information to >>>you on >>> date, in response to your earlier similar request dated >>>>>.

As both of these requests are similar and from the same organisation, under Section 12 of the Freedom of Information Act, we are entitled to aggregate the requests. We are therefore treating these two requests as one for the purposes of the processing time specified in the Act. This is a maximum of 18 man hours of effort. As this limit has been reached we are not obliged to comply with any further similar requests until a reasonable time limit has elapsed

Potential commercial suppliers/future contracts

Suppliers can register for future tender opportunities with Cheshire Fire Authority at www.supply4NWFire.org.uk using the 'Supplier Registration' tab. This will provide you with email updates on opportunities that match your business. Registering your interest online enables suppliers and buyers to fast track the procurement process and greatly reduce tendering costs.

6 Freedom of Information Request Process

