

## DEVON & SOMERSET FIRE & RESCUE SERVICE

## Information Assurance Service Policy Document

### Document purpose:

The purpose of this document is to enable the dissemination of Devon and Somerset Fire and Rescue Service's Freedom of Information Act 2000 policy and procedure and related guidance throughout the organisation.

NOTE – If you are reading a paper copy of this document it may not be the most up to date version. For the latest version view the information on the Service Intranet.

### Document status:

<b>Ownership:</b>	Information Assurance Manager
<b>Originating date:</b>	June 2008
<b>Review date:</b>	Every two years
<b>Last review or amendment:</b>	November 2020
<b>Key consultees:</b>	EB, IAOs, FBU, FOA, RFU, Unison

### Further information:

- Information Security Policy
- Environmental Information Regulations Policy
- Data Protection Policy
- Social Media Policy

### Cross-references:

- The General Data Protection Regulations 2016 (GDPR)
- The Data Protection Act 2018
- Electronic Communications Act 2000
- Regulation of Investigatory Powers Act 2000
- Environmental Information Regulations 2004
- The Information Commissioners Office
- The Local Government Transparency Code 2015
- The Local Government (Access to Information) Act 1985

## **POLICY STATEMENT**

The Devon and Somerset Fire and Rescue Service (from now on referred to as the Service) is fully committed to complying with the requirements of the Freedom of Information Act 2000 (hereinafter called the Act) in line with the ethos of the Act to promote openness and accountability within public authorities.

The Service expects all uniformed, non-uniformed and control staff to comply in full with this policy.

## **COMPLIANCE STATEMENT**

The Service will not discriminate against any persons in the application of this policy or any subordinate procedures.

This policy is OPEN under the Freedom of Information Act 2000.

## **KEY INFORMATION**

Compliance with the Act means that:

- The Service will respond to requests for information within 20 working days. A valid request must be in writing (stating full name and contact) and clearly describe the information being requested.
- The Service will provide a publication scheme on the website.
- An effective records management system will be maintained so that it is understood the information held, its location, access permissions, purpose and how long it's needed.
- Any information, documentation or records that are produced internally or held by the Service or held by contractors or third parties on our behalf, are covered by the Act.
- Requests can be about any subject and held in any format. Consideration should only be given to information requested, not the applicant.
- The Information Assurance Team facilitate FOI responses. Information is requested from relevant departments and then evaluated to determine what can be released.
- Information must be provided to the Information Assurance Team within the specified timescale to allow sufficient time to evaluate the information, apply necessary exemptions and respond within legislative timescales.

## Contents

.....	<b>Error! Bookmark not defined.</b>
Document purpose:-.....	1
Document status:- .....	1
Further information:-.....	1
Cross-references:- .....	1
POLICY STATEMENT .....	1
COMPLIANCE STATEMENT .....	2
KEY INFORMATION .....	2
CONTENTS .....	<b>Error! Bookmark not defined.</b>
1. INTRODUCTION .....	3
2. LEGISLATION AND GUIDANCE DOCUMENTS.....	4
3. REQUESTS FOR INFORMATION .....	4
4. publication scheme .....	5
5. charges .....	5
6. exemptions .....	6
8. environmental information regulations .....	7
9. Discipline .....	7

## 1. INTRODUCTION

The Act came into force on 1 January 2005 and is fully retrospective (in that all information the organisation holds previous to the Act coming into affect is considered under the Act).

The Act provides a general right of access to information held by public authorities or by those providing services for public authorities. The Act is intended to promote a culture of openness 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 right of access to information recorded by public authorities, subject to certain exemptions,
- A duty to provide advice and assistance to persons who propose to make, or have made, a request, (Section 16)
- A duty to adopt and maintain a publication scheme,
- Arrangements in terms of costs and fees,

- Arrangements for enforcements and appeals,
- Arrangements for records management
- If information is not exempt, the public authority has the duty to confirm or deny that they hold the information and the duty to communicate.

## 2. LEGISLATION AND GUIDANCE DOCUMENTS

Managers and users must avoid breaches of the Act. The Act links to the following legislation:

- Data Protection Act 2018
- Computer Misuse Act 1990
- Environmental Information Regulations 2004

## 3. REQUESTS FOR INFORMATION

The Information Assurance Manager is responsible for dealing with requests under the Act.

To ensure the service complies with the request within the 20 working day deadline, any member of uniformed, non-uniformed or control staff (hereinafter called employee) who receives a request for information be it entitled under the Act or not, must contact the IA Team or via the FOI email address ([freedomofinformationact@dsfire.gov.uk](mailto:freedomofinformationact@dsfire.gov.uk))

Requests for information must:

- Be made in writing (by letter, email or fax)
- Provide a name and address for correspondence (an email address is sufficient in the case of requests sent by e-mail. However a postal address would be required if we needed to send hard-copy documents in response to the request).
- Provide sufficient details to enable the Service to locate the information required.

It is important to note that:

- The applicant does not have to mention the Act when making the request;
- The applicant need not be a United Kingdom national or resident. A request can be made by anyone, anywhere in the world;
- The public authority cannot take into account the identity of the applicant when considering the request. The process must be 'applicant blind';
- The public authority cannot ask why the applicant wants the information, and if the applicant voluntarily provides this information, the public authority cannot take this into account when considering the request;
- As soon as a valid request has been received, the public authority has to provide the information within 20 working days (subject to the exemptions);

## ***Freedom of Information Act 2000***

- There is a presumption in favour of disclosure. Information may only be withheld if an exemption applies;
- It is an offence to amend, destroy or conceal any record with the intention of preventing its disclosure under the Act.

Where a request is received by telephone, the caller should be informed that they are making a request under the Act and should be asked to put their request in writing, either by letter or email. If the applicant is unable to do so for any reason, a note should be taken of the request and sent to the applicant for confirmation. (This sits under the duty to provide advice and assistance as set out in Section 16 of the Act.) Refer to the FOI Service Procedures Document for detailed guidance.

Any requests made for environmental information are to be dealt with under the Environmental Information Regulations (EIR) 2004. These regulations allow requests to be made by telephone. Further information about these regulations is held in the EIR Policy.

### **4. PUBLICATION SCHEME**

The Act requires every public authority to adopt and maintain a publication scheme. The publication scheme sets out what information the Service already makes available, how that information may be accessed and whether there is a charge for providing that information.

The publication scheme will host information under the following headings and will be available through our external website:

- Who we are and what we do
- What we spend and how we spend it
- What our priorities are and how we are performing
- How we make decisions
- Our policies and procedures
- Lists and registers
- The services we offer
- Fire service reports on major incidents

### **5. CHARGES**

Where the cost of complying with the request is less than £450, the Act allows a public authority to make a nominal charge for disbursements (i.e. printing, copying or postage).

# ***Freedom of Information Act 2000***

In accordance with the guidance issued by the Department for Constitutional Affairs, the Service will not make a charge if the cost of disbursements is less than £10.

Where the cost of complying with the request exceeds £450, the Service is not obliged to comply with the request. However the Code of Practice issued by the Secretary of State advises that where an authority cannot comply due to them exceeding the 'appropriate limit' (ie £450) the authority should consider providing an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant by reforming or re-focusing their request, information may be able to be supplied for a lower, or no fee.

For further information about charges, refer to the FOI Service Procedure Document.

## **6. EXEMPTIONS**

A number of exemptions apply to the Act when considering the disclosure of information. The exemptions under the Act and exceptions under the Environmental Information Regulations 2004 recognise that it would not always be appropriate for all information to be made public.

Some exemptions are 'absolute', meaning that information can be withheld without considering any public interest in disclosure. However the decision whether an exemption is valid may be challenged. The majority of exemptions in the Act and all of the EIR exceptions are 'qualified' and the public authority needs to consider the public interest favours disclosure of non-disclosure.

For more information on exemptions, refer to the FOI Service Procedures Document.

## **7. ROLES AND RESPONSIBILITIES**

The Executive Board is accountable for the Service's corporate compliance with the Act and day to day management of process and procedure is the responsibility of the Information Assurance Team. This includes:

- Providing advice and guidance to members of the public and members of the service at all levels, on issues in respect of the Act;
- Providing appropriate training to all members of the service;
- Receiving requests for information and assessing and deciding on the level of disclosure required by the Act;
- Setting up, co-ordinating and overseeing administrative procedures necessary to comply with the Act;

## ***Freedom of Information Act 2000***

- Compiling policies for use by the service in respect of the Act and conducting policy reviews and updates as applicable in line with changes in legislation;
- Amending and updating the Publication Scheme as necessary.

It is the responsibility of **all** employees to:

- Recognise and forward all requests to the Information Assurance (IA) Team as soon as possible;
- Provide advice and assistance to persons who propose to make, or have made, a request for information, or refer to the IA Team;
- Provide the information which is the subject of the request to the Information and Corporate Communications Manager or Information Officer as soon as possible;
- Maintain standards of record keeping which support disclosure as required by the Act.

The person who makes the decision not to disclose the information in compliance with the Act will be accountable to the Information Commissioner through the appeals process.

## **8. ENVIRONMENTAL INFORMATION REGULATIONS**

The Act 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 environmental information held by public authorities.

Environmental information is information about the environment, including the 'state of the elements of the environment, such as air, atmosphere, water, soil, land, landscape and natural sites'.

## **9. DISCIPLINE**

Failure, on the part of any employee, to comply with any of the requirements of this policy may result in disciplinary action being taken.

Any employee who alters, defaces, blocks, erases, destroys or conceals any record with the intention of preventing the disclosure of information to which the applicant would have been entitled, commits an offence and may be subject to prosecution.