



# Freedom of Information Act / Environmental Information Regulations

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## **Executive Summary**

This policy will ensure that Hereford & Worcester Fire and Rescue Service (The Service) is compliant with both the Freedom of Information Act (FOIA) 2000 and the Environmental Information Regulations (EIR) 2004.

It applies to all Service employees and will identify roles and responsibilities and will be renewed biennially or as legislatively required.

## **Alternative Formats**

If you require this document in another format please contact the Human Resources and Development Department.

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# Freedom of Information Act / Environmental Information Regulations

## 1. Introduction

The Freedom of Information Act (FOIA) 2000 was introduced to allow any individual the right to access recorded information held by public sector organisations, regardless of format i.e. hard copy documents, electronic medium, c.d. or video recording.

Equally the Environmental Information Regulations (EIR) 2004 specifically provides access to environmental information.

### 1.1 Overview

FOIA and EIR are intended to:

- encourage public debate on everyday issues
- promote accountability and transparency for making decisions and when spending of public money
- bring to light information affecting public safety
- contribute to the administration of justice and law enforcement
- increase public participation in environmental decision making
- keep the public informed of any danger to public health and safety or environment.

Personnel information is not regulated under FOIA or EIR but currently by the [Data Protection Act \(DPA\) 1998](#) and from 25 May 2018 under the [General Data Protection Regulation](#). Data protection is considered separately in Service Policy / Instruction No.1 – Management and Administration, Section G – Public Relations, Part 2 – [Data Protection](#).

## 2. Governance Arrangements

The [Information Commissioner's Office](#) (ICO) is the UK's independent public authority set up to uphold information rights. The ICO enforces and oversees FOIA and EIR, along with the Data Protection, Privacy and Electronic Communications Regulations (PECR) 2003 and INSPIRE Regulations 2009. Close Circuit Television (CCTV) is regulated by the [Surveillance Camera Commissioner](#).

Within the Service, Information Governance is managed by the [Head of Corporate Services](#), with the Deputy Chief Fire Officer (DCFO) having overall responsibility. The Head of Legal Services is the official [Qualified Person](#) as per the FOIA and the [Information Governance Advisor](#) (IGA) is responsible for processing information requests and providing advice and assistance on any Information Governance issue.

The Service is a member of the National Fire Chiefs Council's Information Management Forum that liaises on Information Governance issues affecting all Fire and Rescue Services.

### **3. Requirements of FOIA and EIR**

#### **3.1 FOIA and EIR Requests**

Anyone can make an FOIA or EIR request. The FOIA applications must be in writing and provide a valid name, which includes Company or Authority names and a contact email or postal address.

EIR enquiries can be written or verbal; however a valid name and return address are required, as with FOIA requests.

The applicant does not have to specifically state that they are making a request under FOIA or EIR or state why the information is required.

Full details on how individuals can submit a request are available on the Service's website: [Freedom of Information](#).

All requests must be forwarded as soon as they are received to the [Performance & Information](#) (P&I) Department, who will process and respond to the request. Departments **must not** reply directly to the applicant.

Under FOIA, any information produced by / held by the Service or held by contractors or third parties on behalf of the Service is included.

The Service has a statutory duty to respond to FOIA and EIR requests within 20 working days; however the deadline for EIR requests may be extended to 40 working days if the enquiry is particularly extensive.

#### **3.2 Requests for Personal Information**

Information about living, identifiable individuals is personal information and as such, should not be treated as FOIA or EIR requests but as [Data Protection Act 1998](#) enquiries. All applications for personal data received by HWFA should be processed in-line with the Service's [Data Protection Policy](#) and forwarded to the [Performance & Information](#) (P&I) Department immediately upon receipt.

#### **3.3 Business as Usual Requests**

Where the information requested has already been produced i.e. statistics in the Community Risk Management Plan or Fire Safety advice leaflet, then these requests are considered as "Business as Usual" and do not need to be logged / processed as FOIAs / EIRs. Such routine enquiries must be responded to by Departments in a timely fashion and advice sought from the [P & I Department](#) if required.

### 3.4 Exemptions/Exceptions

Individuals may apply for any information under FOIA and EIR but the Service is not always obliged to release the requested data. There may be valid reasons why the information is to be withheld; for example where providing information could threaten the Service's security or prejudice legal proceedings. Full details are available on the ICO's website at the following links:

- [FOIA - Exemptions](#)
- [EIR - Exceptions](#)

In some instances there is a valid public interest in releasing the information and this will override an exemption / exception. For example to promote transparency in public spending i.e. the MP's expenses scandal. All requests will be considered on a case by case basis and any valid exemptions / exceptions will be applied by the [P & I Department](#) before disclosure.

### 3.5 Charging

All FOIA requests are free, whilst a reasonable fee may be charged for EIR requests.

However, if it is estimated that an FOIA request will cost more than £450 or exceed 18 hours of work, it can be refused on grounds of cost. In such cases the applicant must be provided with an estimate of how much it would be to complete (Fees Notice).

### 3.6 Incident Reports / Fire Investigation Reports

As with FOIA requests, the application for Incident Reports or Fire Investigation Reports must be in writing and submitted to the Performance & Information Department for processing.

Incident Reports and Fire Investigation Reports are free of charge; however, Reports will only be disclosed to the Courts, Police, Coroner's Office, other Fire Services, Ambulance Service, Highways Agency, Environment Agency, Home Owners / Occupiers and Individuals affected by / involved in the Incident.

In-line the FOIA's [Publication Scheme](#) requirement, Major Incident Reports will be published on the Service's website after any necessary incident investigation has been completed. Major Incidents are defined by the [Joint Emergency Services Interoperability Programme](#) as "An event or situation requiring a response under one or more of the emergency services' major incident plans". A major incident may be declared by a single blue light service or jointly.

### 3.7 Complaints

If an applicant considers that they have not received the information they are entitled to or has a query on how their request was managed, they can submit a concern or complaint.

Any concerns / complaints will be dealt with under the standard complaints procedure and will be acknowledged within 3 working days and replied to within 10 working days once an internal review has been conducted. Details on how to submit either a concern or complaint are available on the Service's website: [Comments and complaints](#).

If an applicant is still not satisfied with the outcome then they can appeal directly to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, SK9 5AF, Tel: 0303 123 1113 (alternatively 01625 545745) or E-mail: [casework@ico.org.uk](mailto:casework@ico.org.uk).

### **3.8 Publication Scheme**

Under FOIA, Public Authorities are required to produce a [Publication Scheme](#), as set out by the ICO, which clearly and proactively illustrates what information is routinely made available.

By actively providing information, it is expected that the number of FOIA / EIR requests received will reduce.

### **3.9 Transparency**

In addition to the Publication Scheme, information on how local authorities make decisions, spend money and deliver services must be proactively made available under the [Local Government Transparency Code](#). The Code sets out the minimum data that local authorities should make available, the publication frequency and required format.

The Transparency Code and Publication Scheme work in partnership to promote democratic accountability, make it easier for local communities to contribute to decision making processes and to participate in public service development.

## **4. Guidance**

Staff requiring assistance or advice should contact either the [IGA](#) in the Performance & Information Department, [Head of Corporate Services](#) or the [Head of Legal Services](#).

Guidance is also available from the [ICO](#).

## **5. Further Information**

### **Legislation**

- [Data Protection Act 1998](#)
- [Environmental Information Regulations 2004](#)
- [Freedom of Information Act 2000](#)
- [General Data Protection Regulation](#)
- [INSPIRE Directive](#)
- [Local Government Transparency Code 2015](#)
- [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#)

## Service Policies/Instructions

- [Data Protection](#)
- [Information Security Policy Framework](#)
- [Publication Scheme](#)