

Freedom of information

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1 Introduction

- 1.1 This policy provides guidance for staff on handling requests for information in the context of the Freedom of Information Act (FOIA). It also gives guidelines on how staff should deal with complaints in relation to handling requests for information.
- 1.2 The Information Access Team (IAT) are responsible for all freedom of information matters. Lead responsibility for compliance with the FOIA is with the Director of Corporate Services.
- 1.3 FOIA places two main legal duties on the London Fire Commissioner:
 - To deal with individual requests for information, referred to as the 'general right of access.'
 - To maintain and develop a publication scheme.

2 General approach

- 2.1 Some departments routinely provide information to the public, either by dealing with specific requests, or by publishing information on the external web site. Departments should continue to provide information where a request is 'business as usual', although any request for information needs to be handled in accordance with the FOIA. For example, you must respond within the statutory timescale, and cannot ignore the request or refuse to provide the information without relying on one of the 'exemptions' in the FOIA (see below). If the request mentions FOIA or Data Protection Law please refer onto the Information Access Team.

3 Background

- 3.1 The Freedom of Information Act (FOIA) gives a general right of access to all types of 'recorded' information held by public authorities (such as the London Fire Brigade), sets out exemptions from that right and also places a number of other obligations on public bodies. Any request for information received by the Brigade that is in writing and states the name and address of the requestor must be handled in accordance with the FOIA, including the statutory timescales for responding to the requestor. The information commissioner is an independent government appointee who is responsible for enforcing compliance with the Freedom of Information Act and other information access legislation, like the Data Protection Law. For further information refer to: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>.

4 The general right of access

- 4.1 The FOIA gives people a general right to access information that is held by public bodies. A request for information does not have to mention the FOIA, though sometimes it may do. A request under FOIA must be made in writing; if a request is made verbally, you should advise the person making the request to put the request in writing with their name and contact details.
- 4.2 When a request for information is received, we have a duty to:
 - Confirm or deny whether the information is held.
 - Provide the information requested (unless an exemption applies).
 - If the information cannot be provided, because an exemption is applicable, then reasons and an explanation of its application are to be provided where necessary.
 - Provide advice and assistance to individuals making requests.
- 4.3 The general right of access has been in force since January 2005.

5 Who can make a request for information?

- 5.1 Anyone, anywhere can ask for any recorded information held by the London Fire Commissioner. This can be anyone in the world, such as a member of the public, someone on behalf of a company or other public organisation, the media and more.
- 5.2 The London Fire Commissioner does not need to know why a requestor may want the information. You should not ask individuals why they want the information or why they have made the request; you should always assume that information provided could potentially be available to the public and not just the applicant.
- 5.3 Requests for information received from staff are also potentially freedom of information requests. If you receive a request from a colleague then you should not ignore it. Advise them to contact their line manager in the first instance. If you are the line manager and are not comfortable in disclosing the information, then you should contact the Information Access Team for advice.

6 Requests for information

- 6.1 A response to a FOIA request must be provided, subject to exemptions, **as promptly as possible** and in any case within **20 working days**.
- 6.2 When you receive a request, you should consider the factors below before deciding whether to refer the request to the Information Access Team or not.
- 6.3 You should refer the request if:
 - You do not hold the information requested.
 - You do hold the information requested but you have reservations about releasing it.
 - The request is for complex or contentious information.
 - It is not information which is already in the public domain.
 - You think an exemption may need to be applied.
- 6.4 If you have any doubts about how to handle a request, contact the Information Access Team immediately for advice. You may also wish to inform your line manager.
- 6.5 When a request is vague or does not provide enough detail for you to be able to locate the information, you should contact the Information Access Team to deal with the request. They will contact the person making the request to find out more about what they are looking for. Until more information is received, the 20 working day deadline is suspended and does not start again until clarification is received.
- 6.6 Although you will deal with many requests for information as part of your every day work, it will be necessary to refer some requests to the Information Access Team, either so that they can deal with them, or to obtain advice.
- 6.7 In complex cases, an information access officer will act as lead officer, liaising with the General Counsel if legal advice is necessary. The information access officer will have overall responsibility for centrally co-ordinating information and agreeing any use of exemptions.
- 6.8 Unless it is part of your normal day to day role to do so, do not refer a request to another member of staff or another department, for them to deal with. If you do not hold the information requested then always refer the request to the Information Access Team, who will liaise with any necessary department.
- 6.9 Individuals have a right to ask for information to be provided in a certain way (for example, photocopies or on disk). If you would have difficulties in complying with this kind of request (for example, if it would take you more than a couple of working days to prepare the information or if

you think preparing the information would incur costs), contact the Information Access Team for advice.

7 Information that can be requested

- 7.1 Any information held by the London Fire Commissioner can be requested. Information doesn't just refer to published documents, but also emails, photos, minutes of meetings, internal policies and procedures etc.
- 7.2 The Act is fully retrospective. Any information we hold, regardless of when it was created, could be requested.
- 7.3 Individuals have a right to request information that we **hold**. We do not have to **create** information if we do not hold exactly what an individual asks for. However, we are expected to make information available where it is easily accessible, even if it does not appear exactly as requested. In most cases, if we do not hold the information requested, we must inform the individual of this and wherever possible, offer suitable alternatives.
- 7.4 There are no blanket exemptions to prevent particular kinds of information from being released. For this reason, every request must be dealt with on a case by case basis and where necessary, exemptions applied.
- 7.5 Information that may not necessarily 'belong' to us, or that we 'own' can also be requested. For example, if we hold information on behalf of another organisation, it may be requested. If you receive a request for information that was not created by or does not belong to the London Fire Commissioner, and you would not normally deal with this type of request, you must contact the Information Access Team immediately. Such information would still need to be considered for disclosure as it is information that we 'hold.' The Information Access Team have a process to liaise with outside organisations who may be the owners of the information to ascertain their views on disclosure where appropriate.
- 7.6 Information held in any format can be requested. This includes information held on paper (for example, hand written notes taken at a meeting) and electronic (for example, e-mails sent between colleagues) and audio or recorded images (for example, CCTV). There is not an automatic right to documents, but the information that is contained in the documents.

8 Responding to a request for information

- 8.1 Where the Information Access Team is co-ordinating a request centrally, information may be requested from you in order to respond to the request. You must be able to locate, retrieve and provide the information to them as quickly as possible. Owing to the 20 day deadline, unless otherwise specified, you will be given five working days to locate, retrieve and supply information to the Information Access Team. If you estimate that five days will not be long enough, then you should speak to the Information Access Team at an early stage to agree an extension.
- 8.2 Although you may have concerns about releasing some information to the Information Access Team, there is an expectation that everything you hold that relates to the request is passed to them, and any concerns should be discussed with them, so that they can determine if any exemptions need to be applied. If you believe the information to be particularly sensitive, you should liaise with your Head of Service who can raise the issue with the Director of Corporate Services for a decision to be made.
- 8.3 Once the Information Access Team have the information that has been requested, they will assess the information with you, or will ask you to assess the information to identify whether all the information can be provided or whether some of the information may fall under an exemption

(see section 11: Exemptions which explains that only the Information Access Team can apply exemptions). Where an exemption is applicable, the Information Access Team will only authorise the sign off of the exemption with the authorisation of the relevant head of department or senior manager acting on behalf of the head of department.

9 Charging for information

- 9.1 The London Fire Commissioner is entitled to charge the applicant for limited work in complying with the request, such as the cost of reproducing the document and postage costs but the London Fire Commissioner's general position is to only charge the applicant when the cost of complying with the request is going to be more than £10.
- 9.2 Information made available under the publication scheme is not subject to the same restrictions on charging and some items in the publication scheme are chargeable; these are detailed at the [Publication Scheme Charges for Information](#).
- 9.3 All charges **must** be applied through the Information Access Team. If you believe that you may be able to charge for providing information (as postage is going to be over £10 or that locating and retrieving information is going to take more than two and a half days) then you must contact the Information Access Team first.
- 9.4 Section 12 of the Freedom of Information Act provides an exemption from our obligation to comply with a request for information where the cost of compliance is estimated to exceed the 'appropriate limit'. The 'appropriate limit' is the key concept concerning fees and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regulations) state that the cost limit applicable to LFC is £450. In determining whether complying with a freedom of information request would exceed the appropriate limit, LFC can only take into account the costs it reasonably expects to incur in determining whether it holds the information, locating, retrieving and extracting the information. Any officer time spent on these activities is to be estimated based on a rate of £25 per hour per person, regardless of the actual cost or rate of pay, which means that the limit will be exceeded if these activities exceed 18 hours.
- 9.5 Where an Information Access Manager reasonably believes that the cost of complying with the request will exceed £450, the request should be discussed with the Applicant to see how their request could be narrowed, to keep the fee charged as low as possible.

Exemptions

- 9.6 There are 23 exemptions which allow information to be withheld if the exemption applies to the information requested. Some of the exemptions are subject to the public interest test (known as 'qualified exemptions'). Some exemptions are not subject to the public interest test (known as 'absolute exemptions'). The exemptions are as follows:
- **The absolute exemptions (exemptions where the public interest test does not apply).** These include the following exemptions which are most used by the Brigade (there are others which are listed on the ICO website):
 - Information accessible to applicant by other means.
 - Prejudice to effective conduct of public affairs.
 - Personal information (where the applicant is the subject of the information).
 - Information provided in confidence.
 - **The qualified exemptions (exemptions where the public interest test applies).** These include the following exemptions which are most used by the Brigade (there are others which are listed on the ICO website):

- Information intended for future publication.
 - National security.
 - Personal information concerning a third party (Data Protection Law and the GDPR provisions apply).
 - Legal professional privilege.
 - Commercial interests.
- 9.7 Some of the exemptions are subject to the public interest test (known as 'qualified exemptions'). In applying any of the qualified exemptions, if the exemption applies, the public interest test must also be considered. This is to weigh whether the public interest in disclosing the information outweighs the public interest in withholding it.
- 9.8 There can be no 'blanket exemptions'. All exemptions must also be considered on a case by case basis and at the time of considering a request for information, they cannot be pre-determined. Documents which the London Fire Commissioner marks as restricted under Policy number 619 – LFB Security Classification System, or reports to committees which are restricted (i.e. to be considered under Part 2 agenda), are not automatically excluded from disclosure and whether or not they are released must be considered in the light of the request that has been made.
- 9.9 Where an exemption has been applied, it does not necessarily mean that if the same information is requested again, that the information will **still** be exempt. The application of the exemption must be reviewed in light of the lapse of time and any change in circumstances.
- 9.10 Exemptions can only be applied by the Information Access Team (acting on behalf of the Chief Information Officer). This is so that exemptions can be signed off at a senior level, their use monitored and a full audit trail recorded.
- 9.11 If you receive a request for information that you think may be exempt (no matter how obvious it may seem that the information should not be released,) you must contact the Information Access Team without delay.

Public interest test

- 9.12 In some cases, where a qualified exemption is applied, managers will also have to consider the public interest test. This is where the public interest in withholding the information must outweigh the public interest in releasing the information.
- 9.13 Where the public interest in releasing the information is greater than withholding it, information will be provided – even if an exemption applies.
- 9.14 Where an exemption and/or the public interest test apply to information requested, the Information Access Team will work with the relevant managers to agree what information can be released and what must be withheld. The Chief Information Officer has overall responsibility on deciding on the public interest test.

10 Complaints handling

- 10.1 If an individual is dissatisfied with the service they have received in relation to their request for information, they have a right to complain to the London Fire Commissioner. If an individual is dissatisfied with the information provided (or not as the case may be) then they have a right for their request to be reviewed.
- 10.2 The following link provides information about complaints relating to the handling of requests for information: <https://londonfire.sharepoint.com/sites/HW-Culture/SitePages/Compliments-and-complaints.aspx>.

10.3 Any other complaints relating to the standards of service provided by the Information Access Team must be dealt with under Policy number 639 – External compliments and complaints procedure.

11 The Publication Scheme

11.1 The London Fire Brigade (LFB) publication scheme is the recorded information we hold which is routinely available to the public. The publication scheme sets out:

- The classes of information we publish or intend to publish.
- The manner in which information will be published.
- Whether the information is available free of charge or upon payment.

11.2 Under the FOIA, the London Fire Commissioner must have a publication scheme to make sure that a significant amount of information is available to the public without the need for a specific request. This aims to save the public time and effort.

11.3 Publication schemes are intended to encourage organisations to publish more information proactively and to develop a greater culture of openness. The scheme brings together the many different types of information available to the public in a structured way with details of how the information can be obtained. The publication scheme lists the different types of information we make available in groups so it is easy to find. These groups are called 'classes' of information. The publication scheme should work in conjunction with the government's drive to make a wide range of information available as part of its transparency initiative.

11.4 The publication scheme – which must follow a model laid down by the Information Commissioner - includes a wide range of information about who we are, and what we do. It explains how the publication scheme works and how to access other types of information not included in the scheme. It is available on the external website: <http://www.london-fire.gov.uk/PublicationScheme.asp>

11.5 Information covered by the scheme is made available in one or more of the following ways:

- on our website,
- by email,
- by post or
- by personal inspection.

12 Process for handling requests for information in the Publication Scheme

12.1 If a member of staff receives a request for information that is available on the public website or on a public report, that information should be supplied directly to the applicant. If the information is not available or the request for a report is more complicated, it must be referred to the Information Access Team.

12.2 Members of the public can inspect information covered by the scheme at Brigade Headquarters by making an appointment with the department holding the information (via the Knowledge Management Team).

12.3 Managers need to make sure their staff are aware that they must not refuse access to information covered by the scheme and must deal with requests for information promptly.

13 The Re-use of Public Sector Information Regulations (RPSI)

- 13.1 The Re-use of Public Sector Information Regulations (the "Regulations") implements Directive 2003/98/EC of the European Parliament. The Regulations came into force on 1 July 2005 and give applicants the right to ask for the LFB's permission to re-use information for their own purposes, sets out exclusions from that right and places a number of obligations on public authorities.
- 13.2 The Re-use of Public Sector Information Regulations 2005 places two main duties on the LFB:
- To publish a list of main pieces of information available for re-use.
 - To deal with individual requests for the re-use of information held by the LFB.
- 13.3 The Regulations set out a small number of exclusions where the right to request to re-use information does not apply. The Office of Public Sector Information (OPSI) has the lead for implementing the Regulations, for encouraging the re-use of public sector information, for promoting best practice and enforcing the Regulations.
- 13.4 If you are approached for permission to re-use public sector information, or would like further guidance on the re-use of public sector guidance, you should contact the Knowledge Management Team in the first instance.

14 Further advice and guidance

- 14.1 Further advice and guidance is available from the Information Access Team (part of the Knowledge Management Team in the Information and Communications Technology Department).
- 14.2 Further details about the information commissioner is available at www.ico.org.uk/.

Document history

Assessments

An equality, sustainability or health, safety and welfare impact assessment and/or a risk assessment was last completed on:

EIA	28/08/08	SDIA	01/09/11	HSWIA	21/01/19	RA	
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Audit trail

Listed below is a brief audit trail, detailing amendments made to this policy/procedure.

Page/para nos.	Brief description of change	Date
Page 9, Para 19.4	Delete reference to cancelled policy number 264.	16/03/2009
Throughout	Departmental changes made throughout Policy.	19/05/2009
Throughout	Policy reviewed as current. Minor wording changes made throughout to reflect the current organisation of the KMT and other departments. Please read to familiarise yourself with the content.	17/03/2011
Pages 9-10	Section 19 updated. Please read to familiarise yourself with the content.	06/12/2011
Throughout	Department name change: Knowledge and Document Management Team has been replaced by Knowledge Management Team.	21/03/2012
Page 7, Para 12.1	The ICT acceptable use policy (AUP) has replaced the code of practice on the use of computers (CoPUC) policy.	26/04/2012
Throughout	Policy has been changed throughout and rewritten to include the following cancelled policies: PN321, PN322, PN774, PN775 and PN779. Please reread to familiarise yourself with content.	14/04/2015
Page 5, para 9.4	Correction made from 18.5 hours to 18 hours.	11/05/2018
Page 9	HSWIA date added.	22/01/2019
Throughout	Reviewed as current minor changes made.	26/09/2019
Throughout	Minor terminology changes made to the content.	24/08/2020
Throughout	Reviewed as current minor terminology changes made to content.	06/02/2023

Subject list

You can find this policy under the following subjects.

Organisation	Information Management

Freedom of Information Act exemptions

This policy/procedure has been securely marked due to:

Considered by: (responsible work team)	FOIA exemption	Security marking classification