



# Corporate Administration

## Freedom of Information Policy



## Document Control

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*\*delete as appropriate*

*\*\* Policies should be reviewed annually where possible.*

## Change Management

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T Wiles	Information & Governance Manager	SYFR	5.0	General refresh, separating Policy and internal procedures.	October 2018



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## South Yorkshire Fire and Rescue

### Policy for providing public information under the Freedom of Information Act 2000

#### INTRODUCTION

1. The Freedom of Information Act (FOIA) 2000 provides everyone with a right of access to all recorded public information held by authorities or those providing services for public authorities. This right is to help the public better understand why public authorities make the decisions they do and how they spend public money.
2. South Yorkshire Fire and Rescue Authority (SYFRA) is committed to comply with the provisions of the FOIA which came into force on 1 January 2005, ensuring that individuals know how to access information held by SYFRA and supporting a culture of transparency, openness and accountability.
3. The FOIA is regulated by the Information Commissioner. Information will only be withheld after full consideration if there is an absolute exemption supporting non-disclosure or the public interest assessment determines that information should not be disclosed.
4. The FOIA complements or supports the following legislation:
  - Data Protection Act 2018 provides access to personal information of which the applicant is the subject
  - Environmental Information Regulations 2004, provides access to environmental information held by public authorities
  - Local Government Act 1972 provides access to information rules in relation to meetings of SYFRA and formally established committees and sub-committees
  - Protection of Freedoms Act 2012 requires public authorities to provide information in the format of re-useable datasets when requested
5. The FOI Act places two distinct responsibilities on public authorities:
  - The duty to confirm or deny whether the requested information exists; and
  - The duty to communicate the requested information
6. In delivering its obligations under the FOIA, SYFRA will follow relevant Codes of Practice produced by the Ministry for Justice or other government departments, and guidance issued by the Information Commissioner.

#### The Publication Scheme

7. Section 19 of the FOI Act places a responsibility on public authorities to adopt, implement and maintain an approved Publication Scheme and routinely make available a proportion of disclosable information without waiting for it to be requested.
8. SYFRA has adopted the Information Commissioner's Office Model Publication Scheme for Joint Authorities and Boards which sets out the types of information the ICO would normally expect fire and rescue authorities to publish. This can be accessed on the SYFR website here [www.syfire.gov.uk/transparency/freedom-of-information-foi/](http://www.syfire.gov.uk/transparency/freedom-of-information-foi/).



9. It sets out:
  - the classes of information we currently publish or intend to publish;
  - how they are published or are intended to be published
  - whether the information is available free or if payment is required.
10. Information contained within the Authority's Publication Scheme is exempt under Section 21 of the FOIA as it is 'accessible to the applicant by other means'.

### **Personal Data**

11. Both the FOIA and the EIR do not give people access to their personal data (such as an employee personal record file), access to this type of information must be requested under the Data Protection Act 2018.
12. The Data Protection Act should be taken into consideration when reading this policy as it works in conjunction with FOIA and EIR to provide a framework which assists the public access to information held by public authorities.

### **The Environmental Information Regulations 2004 (EIR)**

13. The Regulations provide public access to environmental information held by public authorities and it does this in two ways;
  - Through routinely publishing environmental information
  - In response to requests from members of the public
14. Environmental information is divided into 6 main areas:
  - The state of the elements of the environment such as air, water, soil, land fauna (including human beings)
  - 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 benefits and economic analyses
  - The state of human health and safety, contamination of the food chain
  - Cultural sites and built structures to the extent they may be affected by the state of the elements and the environment)

### **The Protection of Freedoms Act 2012 – Datasets**

15. Provisions regarding datasets were added to the FOIA by the Protection of Freedoms Act 2012 placing a responsibility on public authorities to provide datasets in response to requests. SYFRA will disclose datasets as defined in the legislation in a re-usable format if asked, so far as is reasonably practicable.
16. These provisions also places a responsibility on public authorities to make the datasets available within the Publication Scheme. Where copyright in a dataset is held by SYFRA, the information will be released with no charge under the [Open Government Licence](#), reserving the right to use either the Non-Commercial Government Licence or the Charged Licence should that be necessary. The Open Government Licence enables use and re-use with virtually no restrictions, including for commercial purposes.

### **Applicable Legislation**



17. In summary, subject to exemptions
- The Data Protection Act provides access to personal information of which the applicant is the subject;
  - The EIR provides access to environmental information held by public bodies;
  - The FOIA provides access to all other information.

## **SCOPE**

18. For the purposes of this legislation, SYFRA (the Authority) and South Yorkshire Fire and Rescue (SYFR - the Service) are deemed to be the same public authority. Requests for information about both the SYFRA and SYFR will be dealt with under the same process whether received by Service or the Authority. Requests relating to the Authority will be dealt with by Barnsley Metropolitan Borough Council in conjunction with and South Joint Authorities Governance Unit, and requests relating to the Service will be dealt with by SYFR staff.
19. This policy is to be adhered to by all employees of SYFRA and SYFR and covers all recorded information held by the Authority and Services. Public recorded information can take many forms: typed or handwritten records, paper and electronic files or records, e-mails, text messages, video and audio recordings, databases, spreadsheets and archived files etc. All is potentially disclosable into the public domain, subject to the exemptions listed in the FOIA at Appendix A.
20. This policy does not cover information that is not recorded, e.g. discussions, hearsay. If a member of the public asks for information and we do not hold it in a recorded form, it does not have to create new information or find the answer to a question from staff who may happen to know it.

## **PURPOSE**

21. The purpose of this policy is to ensure that:
- SYFRA are compliant with the FOIA Act, statutory regulations and associated codes of practice
  - all requests under the FOIA are properly recorded, acknowledged and responded to,
  - all applicants are dealt with impartially, objectively, and without adverse treatment.
  - identify and inform all staff of their responsibilities under the FOIA
  - encourage uniformity in the practice of processing requests for information

## **ROLES AND RESPONSIBILITIES**

22. SYFRA undertakes to:
- Provide a general right of access to information held;
  - Publish information to maintain compliance against the ICO Model Publication Scheme and the Local Government Transparency Code;
  - Ensure all requests for information are processed in accordance with the statutory requirements of FOIA and EIR
  - Ensure procedures are in place to review the Authority's arrangements for administering and managing requests for information
  - Provide advice and assistance where required
  - In cases where information is covered by an exemption or exception, consider whether or not the requested information can be released. If disclosure is refused explain in full why



- Record actions undertaken for each applicant and provide responses within the statutory timescales

#### SYFR Information and Governance Manager

23. The Information and Governance Manager is responsible for:

- Ensuring that the Authority is compliant with the requirements of the FOIA and regulations
- Reporting issues to the Director of Support Services and in turn Corporate Management Board
- Promoting awareness through the Service
- Ensuring the public has access to information to which they have rights under the FOIA and regulations
- Ensuring that the Publication Scheme is maintained
- Preparing complaint and appeals information
- Liaising with colleagues responsible for information when issues arise
- Maintain a register of requests, responses and complaints received under FOIA and EIR.

#### FOI Coordinator / Corporate Administration Team

24. The FOI Coordinator / Corporate Administration Team will

- Receive, record and process all new requests for information, issuing acknowledgements and communicating with the applicant when required
- Assess requests and liaise with colleagues responsible for information handling and arrange for the required information to be sourced
- Ensure internal responses are received in a timely manner to ensure timescales are achieved
- Collate and review responses, seeking further advice and approval where necessary
- Anonymise / redact information not to be disclosed
- Report any issues through the Information and Governance Manager

#### All employees

25. All employees are responsible for:

- Forwarding requests they receive for information to the Corp Admin team without delay, providing a date record of when the request was received
- If requested to provide information by the Corp Admin team, to ensure the response is provided in a timely manner to meet the deadline response date
- Ensuring they do not alter, deface, block, erase, destroy or conceal any information held by SYFR with the intention of preventing disclosure following a request under the Act for the information as this is a criminal offence under section 77 of the Act.



## HOW TO MAKE A FREEDOM OF INFORMATION REQUEST

26. First check whether the information you require has already been published as if it has, we will refer you to that source of information as it is deemed to be “already reasonably accessible”. This may be in one of the following areas of information:

- SYFRA website – <http://www.southyorks.gov.uk/webcomponents/isec.aspx>
- SYFR website – <http://www.syfire.gov.uk/>
- SYFR website open data - <http://www.syfire.gov.uk/transparency/>
- SYFR Publication Scheme - <http://www.syfire.gov.uk/transparency/freedom-of-information-foi/>
- Gov.uk website (Fire and Rescue datasets) - <https://www.gov.uk/government/statistical-data-sets/fire-statistics-data-tables>

27. If you are unable to find the information you require, to make a valid request for information under the FOI Act, your request does not have to mention the FOI Act to be a valid FOI request but it must:

- Be in writing in the form of a letter or email. Requests can also be made via the SYFR website contact us form and our social networking sites
- Include your real full name and an address for correspondence (this could be an email address). We may decide to check an identity if it is clear that a person is using a pseudonym.
- Describe clearly the information you wish to request, providing as much detail to enable us to identify if we hold the information. We may seek clarification if your request is unclear.
- Provide an indication of the format in which you wish to receive the information

28. Below are the various ways of contacting us:

The Freedom of Information Co-ordinator  
South Yorkshire Fire and Rescue  
197 Eyre Street  
Sheffield S1 3FG

Telephone: 0114 2532209 (for advice only)  
Email: [foi@syfire.gov.uk](mailto:foi@syfire.gov.uk)  
SYFR Website: <http://www.syfire.gov.uk/> (online form)  
SYFR Facebook: <https://www.facebook.com/southyorkshirefire>  
SYFR Twitter: <https://twitter.com/syfr>

29. Where a verbal request is received from an applicant who by reason of disability or who are for whatever reason unable to communicate well in English, a written note of the telephone request will be made and sent to the applicant and once verified and returned by the applicant, would constitute a written and therefore valid request for information.

30. We will acknowledge your request within 5 working days. Generally we will provide you with the information within the 20 working days allowed by the FOIA, counting the first working day after the request is received as the day 1. The period of 20 working days can be extended if:

- We need more detail from you to help us find the information you want





- We consider that an exemption applies and need to consider whether giving you the information is on balance, in the public interest. If this is the case we will give you an estimate of the time it may take to make a decision about giving you the information, but it will not exceed 40 working days from when you made the request
- You have to pay a fee for the information. The period allowed is extended by the time you take in paying us the fee. If there is a fee and you do not pay it within 3 months we do not have to give you the information.

### Costs and Fees

31. On receipt of a request for information, we will estimate the cost of:
- Checking if we hold the information you have requested;
  - Locating the information, or a document which may contain the information;
  - Retrieving the information; or a document which may contain the information and
  - Extracting the information from a system or document containing it.
32. If we hold the information you have requested, we will estimate whether the cost of complying with your request exceeds the 'appropriate limit' as set out in the FOI Act. The cost limit for complying with a request or linked series of requests from the same person or group is set at £450 (at a rate of £25 per hour). We can refuse a request if it estimates that the cost of compliance would exceed this limit under Section 12 of the FOI Act. If the estimated cost is less than £450, we will process with your request.
33. If the information you have requested is referred to in the Publication Scheme for which there is no charge, this is available free. If you request a document that is referred to in the Publication Scheme for which there is a charge, then we will give it to you once you have paid the charge.
34. In the following circumstances, we may add together (or aggregate) the costs of answering more than one request made under the FOI Act for the purposes of estimating whether the 'appropriate limit' would be exceeded in relation to those requests:
- Where 2 or more requests relating to the same or similar information have been made to the Authority either from the same person or from 'different persons who appear to the Authority to be acting in concert or in pursuance of a campaign' (section 12(4)(b) of the FOI Act)
  - They are received by the Authority with a space of sixty consecutive working days

### Exemptions

35. In our response to your request, we will normally confirm whether or not we hold the information you have requested and either provide the information to explain that we are withholding part or all of the information due to an exemption. There are also some circumstances where we can neither confirm nor deny whether we holds the information. Exemptions exist to protect information that should not be disclosed, for example because disclosing it would be harmful to another person or it would be against the public interest. A list of exemptions is provided at Appendix A.
36. In the majority of cases where an exemption applies to some or all of the information requested, we will have to consider whether we should override the exemption



because it is in the public interest to release the information. If you ask for information that is exempt we will tell you why we cannot give it to you (called a 'Refusal Notice' under the FOI Act).

37. If you ask for information we own but do not hold, or believe the information you have asked for belongs to someone else, we will let you know the steps that can be taken.
38. If you are part of a campaign and several of you need information from us, we suggest that you appoint a campaign secretary to be responsible for corresponding with us for information.

#### Vexatious and Repeated Requests for Information

39. We are not obliged to comply with a request for information if the request is vexatious and when assessing this, we will consider whether the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation to the Authority in line with the ICO guidance.
40. If we conclude that the request is vexatious, we do not have to comply with any part of it. In addition where we have previously complied with a request for information, we are not obliged to comply with a subsequent identical or substantially similar request from the same person unless a reasonable interval has elapsed between our response to the previous request and receiving the current request. On these occasions a written refusal notice will be issued.

#### **HOW TO APPEAL AGAINST A FREEDOM OF INFORMATION DECISION**

41. Applicants may be unhappy with the treatment they have received if, for example:
  - their application was not dealt with within the 20 working days timescale
  - they did not receive all of the information requested
  - they feel that exemptions have been wrongly applied
  - they feel that a fee has been wrongly charged
42. If you are dissatisfied with the handling of your request, you have the right to ask for an internal review and this is explained at the end of each FOI response. Internal review requests should be submitted in writing within two months of the date of receipt of our response to your original request and should be addressed to:

Andrew Frosdick, Monitoring Officer, South Yorkshire Fire & Rescue Authority

By email: [andrewfrosdick@barnsley.gov.uk](mailto:andrewfrosdick@barnsley.gov.uk)

Or letter to: Andrew Frosdick  
The Monitoring Officer  
South Yorkshire Fire & Rescue Authority  
Barnsley MBC  
Westgate Plaza One  
Westgate  
Barnsley  
S70 2DR

43. Your appeal will be reviewed according to the SYFRA's Internal Review procedure. If you are not content with the outcome of the internal review, you have the right to refer your complaint to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further information can be found on the Information Commissioners website <https://ico.org.uk/>.



## GENERAL DATA PROTECTION REGULATION AND DISPOSAL OF FILES

44. SYFR treats all communications in confidence. We protect personal information in line with obligations under the General Data Protection Regulation 2018 and the Data Protection Act 2018. We will only use the personal information to process the request and to check on the level of service we provide. We do compile and publish statistics showing information such as the number of requests we receive, but not in a form which identifies anyone.
45. We will keep personal information contained in requests in line with our retention policy. This means that information relating to a request will be retained for 3 years from closure of request. Very rarely, in cases subject to complaints or appeals which take longer than 3 years, personal data and the request file will be retained until the case is concluded. Personal data will be retained in a secure environment and access to it will be restricted according to the 'need to know' principle.

## MONITORING/EVALUATION

46. The South Yorkshire Fire and Rescue Authority Audit and Governance Committee receives 6 monthly reports on all FOIA requests and these reports are available on the Authority website [www.southyorks.gov.uk](http://www.southyorks.gov.uk).

## REVIEW

47. The SYFR Freedom of Information Policy will be reviewed every 4 years or sooner if necessary.

## RELATED POLICIES, PROCEDURES AND INFORMATION SOURCES

### Internal

- SYFRA [Publication Scheme](#)
- SYFR Freedom of Information and Environmental Information Regulations Procedure
- SYFR Retention Schedule for information received, version 3, March 2018
- SYFR Data Protection Policy version 1.1, February 2018

### External

- [The Freedom of Information Act 2000](#)
- [The Environmental Information Regulations 2004](#)
- Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013, [SI 2013/1977](#)
- Information Commissioner, [Datasets sections 11, 19 & 54 – Freedom of Information Act v1.1 23/10/2015](#)
- Information Commissioner, [Definition document joint-authorities and boards v.3 16/06/2014](#)
- Information Commissioner, [Model-Publication Scheme v1.2 23/10/2015](#)
- The National Archives, Records Management retention scheduling [Section 9. Information management records](#)
- [Public Sector Information Regulations 2015](#)



## Freedom of Information Exemptions

The following links provide guidance from the Information Commissioner's Office on the use of individual exemptions and exceptions. The most commonly used exemptions by SYFR have been highlighted.

<b>Section 21</b>	<a href="#"><u>Information reasonably accessible to the applicant by other means</u></a>
<b>Section 22 and 22A</b>	<a href="#"><u>Information intended for future publication and research</u></a>
Section 23	Security bodies
Section 24	<a href="#"><u>Safeguarding national security section</u></a>
Section 26	Defence
Section 27	International relations
Section 28	Relations within the UK
Section 29	The economy
Section 30	Investigations and proceedings
<b>Section 31</b>	<a href="#"><u>Law enforcement</u></a>
Section 32	Information contained in court records
Section 32	Information contained in court transcripts
Section 33	Public audit
Section 34	Parliamentary privilege
Section 35	Government policy
Section 36	Effective conduct of public affairs
Section 36	Record of qualified person's opinion
Section 37	Communications with Her Majesty and the awarding of honours
<b>Section 38</b>	<a href="#"><u>Health and safety</u></a>
Section 39	Environmental information
<b>Section 40</b>	<a href="#"><u>Personal information</u></a>
Section 40	Access to information held in complaint files
Section 40	Information exempt from the subject access right
Section 40	Neither confirm nor deny in relation to personal data
Section 40	Personal data of both the requester and others
Section 40	Requests for personal data about public authority employees
Section 41	Information provided in confidence
Section 42	Legal professional privilege
Section 43	Commercial interest
Section 43	Commercial detriment of third parties
Section 43	Public sector contracts
Section 44	Prohibitions on disclosures