



Freedom of Information Policy

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PREVENTING PROTECTING RESPONDING

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1 Introduction

Avon Fire Authority, who is operationally known as Avon Fire & Rescue Service (AF&RS), is committed to complying with the provisions of the Freedom of Information Act 2000 (FOIA) and related legislation.

The FOIA enables anyone, anywhere in the world, to request any information held by, or on behalf of AF&RS. Information must be provided if it is held, unless one or more of the exemptions listed in the Act applies.

It is essential that the requirements of the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA) are taken into account prior to the release of any information. In particular, we must not release information that could compromise the personal data of individuals, whether that data belongs to our own staff or to individuals outside of AF&RS.

Where a request relates to information about another individual, the AF&RS Data Protection Officer should be consulted before releasing that information and can be contacted via the following methods:

Email: FOI-DP@avonfire.gov.uk

Telephone: 0117 9262061

Website: www.avonfire.gov.uk/contact-us/non-emergency and select 'Freedom of Information Request'

Address: The Data Protection Officer

Avon Fire & Rescue Service
Police & Fire Headquarters
PO Box 37
Valley Road
Portishead
Bristol
BS20 8JJ

If you require any assistance regarding submitting a request for information or would like further guidance about the FOI process and this Policy, please do not hesitate to contact a member of the Data Protection team as per the above details.



2 Purpose

The purpose of this Policy is to ensure that:

- anyone wishing to request information held by AF&RS is aware of how to make that request and how that request will be handled by the Service; and
- all AF&RS staff are aware of the requirements of the FOIA and the steps that they should take to ensure that AF&RS remain compliant with the legislation at all times.

3 Scope

This Policy applies to all information held by AF&RS or by someone else on our behalf wherever that information is located. For the purpose of the Act, information includes, but is not limited to: documents (including Word, PowerPoint, and Excel etc.), forms, reports, email, information held electronically (including information on databases), voice recordings, photos/other images and CCTV images.

4 Responsibility

All AF&RS staff are responsible for ensuring that any request for information that they receive is dealt with in line with the requirements of the FOIA and in compliance with this Policy. The Data Protection Coordinator manages and coordinates requests for information received by AF&RS, whilst the Data Protection Officer will provide guidance and has overall responsibility for the process.

5 Making a request

Anyone is entitled to request information that they understand is held by AF&RS. The preferred approach for requesting this information is either via the 'Contact us' box on the AF&RS website: www.avonfire.gov.uk/contact-us/non-emergency and select 'Freedom of Information Request' or directly via email to the AF&RS Data Protection Coordinator at FOI-DP@avonfire.gov.uk. Alternatively requests can be made in writing to the address on page 3 of this Policy.

To be valid, a request does not have to state that it is being made under the FOIA, but it must be in writing, provide the real name of the applicant and provide an address for correspondence (email or postal).



AF&RS staff should note that requests for information could come via post or email to any member of the Service, and it is therefore important that everyone is aware of how they should handle such requests. All written requests for information must be treated as requests under the FOIA.

If a request is unclear, we will ask for clarification as soon as we can to enable us to proceed with considering the request.

6 Dealing with requests

The Data Protection Officer is available to provide advice and assistance to both the general public and to AF&RS staff, and also to help people make requests under the FOIA.

It is important that requests are dealt with promptly within the statutory response period of 20 working days following receipt of a valid request, and that all requests are forwarded as soon as possible to the Data Protection Coordinator (FOI-DP@avonfire.gov.uk). The 20 day timescale can be extended under specific circumstances, for example, if an exemption applies and we are considering whether or not it is in the public interest to disclose the information regardless of the exemption.

AF&RS aim to publish as much information as it can, both proactively and in response to requests under the FOIA; however exemptions will be applied where appropriate to ensure that information which is not suitable for publication is protected.

Where an applicant indicates that they would like the requested information in a particular format e.g. paper, electronic or by viewing the information at one of our sites, we will comply with their preference where reasonably practicable, taking into account all the particular circumstances, including cost.

There is no obligation to provide information where it is 'reasonably available via other means'. Thus, where information is already available on the AF&RS website or on a government website, the applicant should be informed and provided with the appropriate weblinks.

AF&RS is only obliged to provide information that is currently held by the organisation, whilst also taking into account that the information is not subject to exemptions within the FOIA, that information does not fall within the scope of the current data protection legislation and/or impacts on our other legislative responsibilities. Please note that we have to assume that all information that we provide is going to be published in the public domain and therefore it may require suitable redaction before it can be released.

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For example, information can be classed as being 'held' by the organisation if:

- AF&RS already records, gathers and reports on that information in a suitable format;
- information which is already held in the form of a list or a schedule;
- the information can be easily extracted from an electronic database by searching for it in a query form: and/or
- involves simple manual manipulation of information if held in files.

AF&RS are not obliged to create new information or provide opinions in order to satisfy the request.

If the information that is being requested is held by AF&RS and is eligible for release, then the individual making the request is entitled to be told that we hold the information (in full or in part) and provide it in the manner it is requested if it is reasonably practical to do so. Where AF&RS may hold the information and we are unable to release it, we must provide justification for doing so, which would include any exemptions of the FOIA or the current data protection legislation that apply.

AF&RS would respectfully request that anyone requiring information held by the Service should be mindful of the current resource and budget constraints. We would request that individuals should ensure that information is not available via 'other means' prior to making a request and should ask only for information that is necessary for purpose.

Retention

AF&RS retain all request correspondence for the current financial year plus 3 years. Once any correspondence has reached its retention period, it will be securely disposed. We do retain a Requests Log for our records.

6.1 Exemptions

Like much legislation, certain aspects of the Act are subject to exemptions that could be applied when it is not appropriate to supply information that is held, either to protect that information if it should not be released into the public domain, or to reduce the burden on AF&RS staff when responding to such requests, such as when information is accessible by other means (as explained above).

Public Interest Test

Exemptions are classed as either an 'Absolute Exemption' or a 'Qualified Exemption'. The latter is subject to the public interest test. This means that we have to take into consideration public interest arguments whether to release such information. Our decision to release or restrict data should depend on whether its release is beneficial to the public or not. This involves weighing up all the circumstances and our duty to confirm or deny existence of the document, against the public interest in disclosing the holding of the information.



Sometimes even though there is a suitable exemption that we can apply to refuse either part or the entire request, it still maybe in the public interest to release the information. Further information regarding refusals and exemptions can be found on the ICO website: ico.org.uk/for_organisations/freedom_of_information/guide/refusing_a_request

Below is a summary of some of the typical exemptions that could apply, however, this is not an exhaustive list. A full list with explanations can be found on the ICO website.

Cost

Under Section 12 of the FOIA 'Where the cost of compliance exceeds the appropriate limit', AF&RS reserves the right to refuse requests where the cost of providing the information would exceed the statutory cost limit. This limit is currently £450, which equates to 18 hours' work at a statutory rate of £25 per hour, which would consist of:

- determining whether AF&RS holds the information;
- finding the requested information, or records containing the information;
- retrieving the information or records; and
- extracting the requested information from records in a suitable format as requested by the applicant.

Where we estimate that complying with a request will take more than 18 hours of staff time, we will try to assist applicants to make refined requests which are more manageable. In the event that we have already supplied the information to the applicant but they require further information, and to supply that information would then exceed the statutory limit (taking into account the amount of processing time that we have already incurred), we will advise the applicant of this. Should they still require the information, we will advise of any charges that they may incur before continuing with the processing.

Vexatious Requests

Any request for information that may cause distress to staff, is of a discriminatory or threatening nature, or any other circumstance which would result in a disproportionate impact on the organisation, can be treated as vexatious under Section 14 (1) FOIA which 'does not oblige a public authority to comply with a request for information if the request is vexatious' and therefore AF&RS can refuse to respond. Sometimes a request maybe so unreasonable that it would be obvious that it has to be treated as vexatious. Frequent requests about the same issue and/or overlapping requests from the same individual can also be considered as vexatious depending on their nature.

If relevant, AF&RS will also have to take into consideration the context and the history of the request(s).

If the cost of compliance is the only or the main issue for refusing to provide the information, then refusing the request under Section 12 'Where the cost of compliance exceeds the appropriate limit' of the FOIA may be more appropriate.



There is no public interest test required in order to justify the decision if a request is treated as vexatious.

Section 14(1) can only be applied to the request itself and not the individual who is making the request.

The decision to treat a request as vexatious should be given careful consideration and applied in the most extreme circumstances. Staff should seek further guidance from the AF&RS Data Protection Officer or ICO helpline regarding this.

Further guidance for Section 14 (1) for vexatious requests can be found on the ICO website.

Repeat Requests

Under Section 14(2) of the FOIA, AF&RS is not obliged to comply with a request which is identical, or substantially similar to a previous request submitted by the same individual, unless a reasonable period has elapsed between those requests (normally 6 months), or the information that was provided in the initial response has changed.

This refusal to comply can be applied to requests where:

- the information was previously provided (in full or in part);
- where AF&RS confirmed that the information is held but unable to release with reasons for doing so (i.e. exemptions); or
- where we advised that AF&RS does not hold the information.

In these circumstances, AF&RS can refuse the request and is not required to provide a public interest test to justify its decision.

If neither of the above applies then AF&RS will deal with the request in the normal manner.

Further guidance for Section 14 (2) for repeated requests can also be found on the ICO website.

Depending on individual circumstances, AF&RS may decide to respond to similar requests that are received by the same individual within a short period of time by aggregating all requests into a single request. By doing so, AF&RS will take into account any processing time already spent to ensure that responding to an additional request does not exceed the processing timescales as per Section 12 'costs limits' of the FOIA. If exceeded, AF&RS are not obliged to process the request further. As a gesture of goodwill, AF&RS will either ask the individual to review their request or provide whatever information that can be produced within the given processing timescales.



AF&RS are also entitled to aggregate requests where we believe that individual applicants are 'acting in consort' by submitting requests of a similar nature during a short period of time (such as requests that are similar in content, timescale and method of submission).

AF&RS will estimate an initial time spent on each FOI request (that we are aggregating) at a minimum of 3 hours processing time per request. This covers time spent by the Data Protection Coordinator, Data Protection Officer and any other members of staff.

If the combined processing time for all such requests represents more than 18 hours' worth of effort, this would exceed the limit specified in regulations, which is set for public authorities at £450. Under Section 12 of the FOIA, AF&RS is therefore not obliged to comply with such requests and will duly advise the applicants of the decision not to process the requests further.

As a gesture of goodwill, and in most cases, AF&RS will provide what information we can within the given processing time limit.

If an individual feels that the treatment of aggregating their request is unreasonable, AF&RS will ask the applicant to provide sufficient information to demonstrate that they have no association with other applicants. This would include, at a minimum, full name of requestor, requesting organisation, organisational or private address, telephone contact details.

A continued submission of requests from either an individual or a group may be considered vexatious under Section 14 (1) of the FOIA.

An individual is however entitled to submit any number of requests for information to AF&RS if they are for different subjects as long as they are not considered to be vexatious in nature.

6.2 Data Protection Legislation

AF&RS is under a legal duty to protect personal data as required by the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA). We will carefully consider our responsibilities under the data protection legislation before disclosing personal data about living individuals, including current and former staff, Avon Fire Authority Members, and users of our services.

7 The Publication Scheme

AF&RS has adopted the Information Commissioner's Model Publication Scheme and will maintain the scheme to ensure that the information it refers to is up-to-date.

All of the information referred to in the publication scheme is readily available to the public, either via the AF&RS website, in hard copy on request or by inspection at one of our sites.

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Certain information contained within the scheme may only be available on payment of a fee (see below 7.1 Charges).

Further information about the publication scheme is available on the AF&RS website www.avonfire.gov.uk/guide-to-published-information.

7.1 Charges

AF&RS may make a charge that it considers reasonable for information that is not routinely published via our website Publication Scheme, which is stated within the 'Charges for Information' section and the current AFA Charging Rates document: www.avonfire.gov.uk/guide-to-published-information

Any other type of information will be provided electronically and free of charge where possible; however there may be circumstances where we need to charge for information e.g. if it is only available in paper form and there is a large amount of copying involved. If there will be a charge for disbursements e.g. photocopying or postage in order to provide the information, we will inform applicants as soon as possible to see if they wish to proceed. Please note that the circumstances for charging for information via the Publication Scheme is separate from information provided as a result of individual requests.

For further guidance, please consult the Data Protection Officer.

8 Transparency Code

AF&RS are committed to the 'The [Local Government Transparency Code](#) 2015'. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Code sets out a mandatory and recommended set of data for publication, which includes the following data subjects:

- Expenditure exceeding £500
- Procurement and credit card transactions
- Procurement information and waste disposal contracts
- Local authority land and premises
- Organisation charts
- Trade union facility time
- Senior salaries and pay multiple
- Constitution
- Fraud
- Gifts and hospitality
- Grants to voluntary, community and social enterprise organisations

The information that AF&RS publishes in line with the above Code can be found on our website pages: www.avonfire.gov.uk/transparency-code.

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9 Complaints about requests for information

Anyone who has made a request for information under the FOIA is entitled to request an internal review if they are unhappy with the way their request has been handled.

Internal reviews will be carried out by a senior member of staff who was not involved with the original decision. Any internal review will consider whether or not the request was handled appropriately and in line with the requirements of the FOIA. Applicants wishing to ask for an internal review must do so within 40 working days of the date of AF&RS's response by writing to the **Data Protection Officer, Avon Fire & Rescue Service** Police & Fire Headquarters, PO Box 37, Valley Road, Portishead, Bristol BS20 8JJ, telephone 0117 9262061, or by emailing FOI-DP@avonfire.gov.uk.

AF&RS aims to respond to internal reviews within 20 working days of receipt.

Anyone who is unhappy with the outcome of an internal review is entitled to appeal to the Information Commissioner at: **The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 0303 123 1113 (local rate) or 01625 545 745. Website www.ico.org.uk.** There is no charge for making an appeal.

10 Further Information

- Information Commissioner's Office : ico.org.uk/
- Local Government Transparency Code 2015 : www.gov.uk/government/publications/local-government-transparency-code-2015
- Gov.UK Freedom of Information Code of Practice www.gov.uk/government/publications/freedom-of-information-code-of-practice
- AF&RS Data Protection and related Policies: www.avonfire.gov.uk/documents/category/55-data-protection-act


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