

MERSEYSIDE FIRE AND RESCUE AUTHORITY

REVIEW REPORT TO THE

PERFORMANCE AND SCRUTINY COMMITTEE

12 JANUARY 2016

SUBJECT: FREEDOM OF INFORMATION REQUESTS AND ORGANISATIONAL CAPACITY 2015

REPORT NUMBER: CFO/001/16

APPENDICES:

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Purpose of Report

1. To request that Members review the impact of processing Freedom of Information requests.

Introduction and Background

2. MFRA adheres to and is supportive of the Freedom of Information (Fol) Act 2000 and values its role in allowing people access to information and giving them the right to find out about matters and decisions that affect them. However, use of the Act has become increasingly popular and the volume of Fol requests has increased over the years. The table below shows the increase in requests to MFRA since 2011:

Freedom of Information requests breakdown 2011-2015					
Year	Total number of Fol requests	Requests from commercial organisations (as far as can be determined)	Repeat Applicants	No of applicants that made 2-4 requests	No of applicants that made 5-8 requests
2011	72		5	4	1
2012	80		2	1	1
2013	101		8	8	0
2014	138	13	11	9	2
2015 to 9th November	131	17	12	10	2
Additional comments					
2011			Union made 5 requests		
2012			Solicitors made 4 very detailed requests about incidents at the Sonae factory		
2015			One requester made 8 requests and another requester made 5 requests		
There have also been an increasing amount of requests for information about bariatric callouts					

3. Each Fol request involves staff from more than one Department contributing to providing the requested information (or deciding why it cannot be provided). This could include providing the information as requested, providing the information but with some of it redacted (removed), refusing to supply the information by a) applying an exemption, b) determining that the work involved requires disproportionate effort, c) notifying the applicant that it is available via other means or d) determining that the request is vexatious.
4. Dealing with this increase in requests places pressure on relatively small teams. As Members are aware the cuts that MFRA has had to make during the last four years has resulted in significant reductions in its support services, which means there are fewer staff available to service Fol requests. Further budget cuts from 2015/16 will mean more cuts to support services, further reducing capacity.
5. Whilst MFRA respects the rights of citizens to ask for information that may affect their lives and communities and recognises the role that journalists may play in seeking out inefficiencies or poor practices in the public sector, there is an associated cost. The staff collecting, collating, checking, redacting and authorising release of the requested information all have other work to do. As a result, dealing with a Fol request can take staff away from core business and not result in any added value for the organisation.
6. For example in the Strategy and Performance function, where the Fol requests are processed, the requirement to deal with increasing numbers of Fol requests within the 20 day deadline means that other important work that also contributes to compliance with legislation (such as Data Protection) is adversely

affected. Checking and signing up to Information Sharing Agreements and maintaining robust information retention schedules and records management processes all suffers as a result of the relatively short timescales allowed for Fol responses. A similar effect is felt in other Departments that frequently have to provide information such as People and Organisational Development and Procurement. Some other Departments are less frequently asked for information and dealing with Fol requests has less of an effect on normal business.

7. Organisations are encouraged to publish as much information as possible on their websites to help people find the information they need without having to resort to making a Fol request. However, this is not a complete solution to the developing problem as it is very uncommon for exactly the same request to be made by two separate applicants. Often the requests are subtly different and require individual consideration. It is intended that all Fol requests will be published on the MFRS website in the future and this might ease some of the current issues.
8. In relation to specific requests, MFRA believes it is particularly difficult to justify the extent to which commercial organisations use Fol to request information to develop new business leads or seek a commercial advantage.
9. MFRA has responded to a call for evidence by an independent Commission that is reviewing the Freedom of Information Act. MFRA have asked the Commission to consider either, levying a charge for such requests (as is the case in other countries), or the ability for an organisation to refuse the request where the applicant is not able to demonstrate that the request is in the public interest.
10. The submission to the Commission goes on to say that, even when requests could be considered to be in the public interest, for example in relation to a public consultation on MFRA's plans, the enthusiasm of some members of the public to seek more and more detailed information can place pressure on a small Authority. Five requests from one person for similar but subtly different complex information in the space of one or two months results in disproportionate effort. This is despite the fact that individually, the cost of meeting the requests would not be sufficient to justify refusal and the subtle differences between requests rule out treating them as vexatious. It is the cumulative effect that has the impact.
11. The Information Commissioner has published his response to the call for written evidence from the Fol Commission. In his submission, the Commissioner argued against the introduction of fees, said there was no evidence that ministerial 'safe space' was being eroded, and that Authorities are able to reduce Fol's burden themselves through using section 14 (vexatious requests). It has also been announced that the Commission will be delayed in concluding its inquiry, having received over 30,000 written submissions. The Commission will now be taking oral evidence in January 2016.

12. It is the view of MFRS that it is difficult to treat requests as vexatious or indeed classify the work required as excessive without it being perceived by the requestor or indeed the public or press as defensive – so in effect organisations often still provide the information for fear of otherwise being perceived as less than transparent.
13. The time spent by all officers involved in processing Fol requests since July 2015 (32 completed requests up to 9th November) has been recorded as the Service was already aware that requests were increasing and wanted to share the information with the Authority and Government departments.
14. The total time spent dealing with Fol requests since recording began has totalled 153 hours spread across a range of staff from administrators to the Chief Fire Officer. This equates to an average of 4.8 hours per request.
15. If this was applied to the total number of requests received this year (to 9th November) it would total 629 hours or 90 working days.
16. One particular example is of a single request for information that was initially refused when it was received in early 2015. This has resulted in a request for an internal management review by the applicant (essentially an appeal to MFRA) and subsequently a complaint to the Office of the Information Commissioner. This one request is estimated to have involved over 20 hours of officer time including two Directors and is still ongoing at the time of writing this report.
17. This is resource that can be ill afforded during these times of austerity, so the point has been made to the independent Commission that it is vital that the Fol requests processed are of valid public interest and not, for example, to further the profits of a commercial organisation.

Equality and Diversity Implications

18. An equality impact assessment is not required for this report. Although each request should be accompanied by a name and address no further details are required and it is not permitted to ask why the applicant wants the information.

Staff Implications

19. The views of staff who are called upon to deal with Fol requests were sought prior to the return of the Fol consultation. Below are a few of those comments:

“The companies requesting it use the data to support their own business (eg bid writing businesses) and get financial gain from doing so. There is one company that is collating all the information and is then trying to sell it back to the public sector as an aid to identifying collaboration opportunities.”

“There is a feeling that all the information has to be provided and other areas of our work must be stopped in order to undertake the Fol. This then leads to a backlog in general work.”

“Whilst receiving similar, albeit slightly different, requests for information quite close together can be frustrating, I can’t say completion has a huge impact on workloads.”

“Frustrations...requests that are virtually the same as another request, only one word is different leading to an entirely new piece of work”

“More complex and contentious Fol requests can create a significant amount of work for the officers involved; often senior officers in these cases”

Legal Implications

20. MFRA has a duty under the Freedom of Information Act 2000 to deal with a request promptly and in any event no later than the 20th working day after receipt of the request. MFRA can exercise its rights under the Act if an exemption correctly applies and in most cases a public interest test is then applied to ensure that any exemptions are correctly applied.

Financial Implications & Value for Money

21. There are no financial implications arising from this report

Risk Management, Health & Safety, and Environmental Implications

22. There are risks associated with not complying with the legal deadline for responding to Fol requests. There are also organisational risks associated with the amount of time officers spend dealing with the increasing number and complexity of requests which means that when they are dealing with them they are not always able to carry out their other duties.

Contribution to Our Mission: Safer Stronger Communities – Safe Effective Firefighters

23. Dealing with Fol requests can have a negative impact on officers’ ability to carry out other work that would contribute to achieving the Mission.

Recommendation

24. That Members;
a) **Scrutinise the information contained within this report concerning Freedom of Information requests**

BACKGROUND PAPERS

CFO/111/11 If this report follows on from another, list the previous report(s)

GLOSSARY OF TERMS

MFRA Merseyside Fire and Rescue Authority is the physical and legal entity.

In writing reports MFRA is the “object”.

MFRS

Merseyside **F**ire and **R**escue **S**ervice is the service provided by MFRA.
In writing reports MFRS is the “action”

E.G.

You are employed by the Authority (MFRA). The job you do forms part of the Service (MFRS) provided by the Authority (MFRA).
[If in doubt use MFRA]