



Northamptonshire Fire and Rescue Service

25 July 2024

NORTHAMPTONSHIRE FIRE AND RESCUE SERVICE - INTERNAL REVIEW of FREEDOM OF INFORMATION ACT 2000 REQUEST - Our Ref: NFRS FOI 4575/24

Northamptonshire Fire and Rescue Service (NFRS) provide an internal review process as per guidance provided by the Information Commissioners Office. It is advised that where an internal review process is available it is because the requestor is unhappy with how the request has been handled or they do not think the decision is correct.

I have been asked to review the previous decision regarding your Freedom of Information request dated 14/06/2024, and the reply you were sent on 02/07/2024 in order to ascertain if the response given to you was accurate and in accordance with the Act.

The original request and the response provided can be found at the end of this Internal Review at Appendix A.

BACKGROUND:

Your request - Our Reference NFRS FOI 4575/24 - asked:

Simon Tuhill, your Deputy Chief Fire Officer, has tweeted today that the LGBT+ community is at a higher risk of experience a fire incident than other groups.

https://x.com/NFRS_DCFO/status/1801333294056743400

Please provide copies of the justification for this claim.

Please also provide:

- 1) itemised costs for all materials bought by NFRS promoting Pride Month
- 2) the number of staff who have chosen to wear rainbow epaulettes
- 3) all papers relating to promotional activities in connection with Pride Month (including the notification to staff members that rainbow epaulettes (and any other similar items) were available for staff to wear.





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- 4) details of equivalent activity taken in relation to reducing discrimination against people with the protected characteristics listed in the Equality Act 2010

You were sent a response to this request where you were told that some information was not held; some information was provided, and some information was refused, citing Section 40(2) - Personal Information. The original request and the response provided can be found at the end of this Internal Review at Appendix A.

You are unhappy with this response and on 03/07/2024, we received your request for an Internal Review:

I am writing to request an internal review of NFRS's handling of my FOI request 'Fire risk to the LGBT+ Community' on the following grounds:

Part (2) of my request has been refused on the grounds that the information is not held. However, in the guidance issued to staff advising them that epaulettes were only being loaned to people using them, it is stated that staff should "Please add in the comments when ordering, the event you need them for or for example Pride month." This suggests that some records of use were being collated and, indeed, as the epaulettes were only on loan, good governance require some check to be made on their return. Consequently, I expect this information to be held.

In part (3) of my request, I asked for information "relating to promotional activities in connection with Pride Month (INCLUDING the notification to staff members that rainbow epaulettes...". The information provided only relates to the provision on epaulettes but as it included a statement that "there are 4 Pride events going on this year and stations/watches/VCS will be attending", I have to conclude that other information relating to these events and the participation of NFRS in them, must be held.

In relation to part (4) of my request in which I sought "details of equivalent activity taken in relation to reducing discrimination against people with the protected characteristics listed in the Equality Act 2010", I have been advised that it was too generic to establish what specific information I required and it has been suggested that I submit a new request if I wished to pursue this. This does not conform with ICO guidance which states that in such cases the public authority "must contact the requester as soon as possible





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for clarification" (see <https://ico.org.uk/for-organisations/foi/guide-to-managing-an-foi-request/how-to-know-whats-being-requested/>). No attempt was made to seek clarification from me and, to assist you in this, I am looking for details of any promotional activities relating to the other protected characteristics listed in the Equality Act 2010. These would include, for example, the provision of badges showing support to people from ethnic minorities or the provision of sunflower lanyards for those with hidden disabilities (given that I do not know what, if any, awareness of the needs of people in these other groups and the discrimination experienced by them is promoted by NFRS, these examples are necessarily illustrative and not exhaustive).

RESPONSE:

This Internal Review is based on the original request and considers if the response given to that request was correct and in accordance with the legislation.

A copy of the original request and the response provided can be found at the end of this Internal Review at Appendix A.

I have read the original request and response, and considered the comments you have made in relation to our stance that NFRS do not hold information requested; I have come to the conclusion that our response - and the partial refusal under Section 40(2) Personal Information - was the correct response, and that the exemption was applied correctly.

The Freedom of Information Act provides a general right of access to information held by a public authority; any person making a request is entitled to be informed whether the requested information is held, and if that is the case, to be provided with that information, unless otherwise exempt.

The ICO states: a 'public authority can ask for more detail about a request for information only as far as this is necessary to enable them to identify and locate the information sought if the request is ambiguous'.

Under Section 16 of the FOIA NFRS have a duty to provide advice and assistance, so far as it would be reasonable to expect the authority to do so; However, an Upper Tribunal commented that 'Section 16 requires a public authority, whether before or after the





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request is made, to suggest obvious alternative formulations of the request which will enable it to supply the core of the information sought within the cost limits. It is not required to exercise its imagination to proffer other possible solutions to the problem.' [Information Tribunal appeal number: EA/2011/0073 & 0074 \(tribunals.gov.uk\)](#) Para. 24.

Although this specifically related to cost limits, it could also relate to any question asked of an authority, as the [ICO](#) also states that an authority 'must not simply give the requester information you think may be helpful ... or what you think they would be most interested in.'

Put simply, when responding to an FOI request, we only answer the question that is asked; as mentioned above, the general right of access to information held by a public authority, is firstly to be informed whether the requested information is held, and if that is the case, to be provided with that information, unless otherwise exempt.

Q1-3 of your request were not ambiguous, did not need clarification, and were responded to as follows:

Q1 - Answered;

Q2 - No information held;

Q3 - Information held was provided, some information was exempt under Section 40(2) - Personal Information (Third Party).

Q4 did need clarification and you were asked to submit a new request being more specific as your request was too general.

In addition to the above, and in an effort to assist, I am addressing the points you raised in your request for an Internal Review; please read the below for a detailed response to these points.

- 1. Part (2) of my request has been refused on the grounds that the information is not held. However, in the guidance issued to staff advising them that epaulettes were only being loaned to people using them, it is stated that staff should "Please add in the comments when ordering, the event you need them for or for example Pride month. " This suggests that some records of use were being collated and, indeed, as the**





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epaulettes were only on loan, good governance require some check to be made on their return. Consequently, I expect this information to be held.

I have reviewed your request, and I can confirm that our response is accurate.

NFRS do not hold any information relative to your request. Question 2 asked for the number of staff who had 'chosen to wear' rainbow epaulettes; staff may have requested the loan of epaulettes but may have chosen not to wear them. There is no information recorded about how many staff 'chose to wear' the epaulettes.

If you would like to ask additional questions in relation to the number of people that requested or were loaned rainbow epaulettes, then this will be considered as a new request. Please submit any new questions to:

FreedomofInformation@northants.pnn.police.uk

- 2. In part (3) of my request, I asked for information "relating to promotional activities in connection with Pride Month (INCLUDING the notification to staff members that rainbow epaulettes...". The information provided only relates to the provision on epaulettes but as it included a statement that "there are 4 Pride events going on this year and stations/watches/VCS will be attending", I have to conclude that other information relating to these events and the participation of NFRS in them, must be held.**

This is a statement of your opinion, not a question. I have reviewed your request, and I can confirm that our response is accurate.

There is no other information held relating to the promotion of Pride Month apart from one of NFRS's internal weekly communications that was sent to all staff, where the notification around Pride epaulettes was included. Pride month is June in the United Kingdom; the internal weekly communication message that was provided in the original response - See Appendix A - was sent on 20/05/2024.

- 3. In relation to part (4) of my request in which I sought "details of equivalent activity taken in relation to reducing discrimination against people with the protected characteristics listed in the Equality Act 2010", I have been advised that it was too generic to establish what specific information I required and it has been suggested**





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that I submit a new request if I wished to pursue this. This does not conform with ICO guidance which states that in such cases the public authority "must contact the requester as soon as possible for clarification" (see <https://ico.org.uk/for-organisations/foi/guide-to-managing-an-foi-request/how-to-know-whats-being-requested/>). No attempt was made to seek clarification from me

Your original request was received by NFRS on 14/06/2024, and the response was sent to you on 02/07/2024. The ICO states that public authorities have 20 working days to respond to a request; this allows time to 'carry out searches', i.e. contacting the relevant teams, departments, or individuals, to ascertain if the information is held and prepare a response. Your response was sent to you 12 working days from the receipt of this request.

Although NFRS would have been entitled to ask for clarification of your request (in relation to Q4) and therefore pause the remainder of the request (Q1-3), it would have been unreasonable to do so when Q1-3 could be responded to. Had NFRS only asked for clarification, and not provided information for Q1-3, NFRS would have re-started the 20 working days 'clock' upon receipt of your clarification, and you would not have received any of the information in relation to Q1-3 until NFRS were able to provide the information for Q4, further delaying the information being provided to you.

It was deemed sensible to provide the information that NFRS held (Q1-3) and ask for the clarification for the part that was ambiguous.

- 4. and, to assist you in this, I am looking for details of any promotional activities relating to the other protected characteristics listed in the Equality Act 2010. These would include, for example, the provision of badges showing support to people from ethnic minorities or the provision of sunflower lanyards for those with hidden disabilities (given that I do not know what, if any, awareness of the needs of people in these other groups and the discrimination experienced by them is promoted by NFRS, these examples are necessarily illustrative and not exhaustive).**

As you have provided further information in relation to Q4 in your request for an Internal Review, this will be dealt with as a new FOI request, and not as part of this Internal Review response.





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The new reference for this additional request is: NFRS FOI 5626/24. The due date for this response is calculated as 20 working days from the date of receipt of the request - 03/07/2024 and is therefore 31/07/2024.

This due date is no different to the due date that would have been set had we asked for clarification instead of providing some of the information to you.

CONCLUSION:

I have read the original request and response, and considered the comments you have made in relation to our stance that NFRS do not hold information requested. I have evidenced above, how I have come to the conclusion that our response - and the partial refusal under Section 40(2) Personal Information - was the correct response, and that the exemption was applied correctly.

After lodging an appeal with Northamptonshire Police, if you are still dissatisfied with the decision, you may make an application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make an application to the Information Commissioner please visit their website at www.ico.org.uk

Alternatively you can telephone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF Phone: 0303 123 1113

Northamptonshire Fire and Rescue Service
Service Headquarters
Darby House
Darby Close
Park Farm Industrial Estate
Wellingborough
NN8 6GS
w. www.northantsfire.gov.uk
t. 01604 797000





APPENDIX A Original Response NFRS FOI 4575/24

Northamptonshire Fire and Rescue Service

2nd July 2024

Request:

Simon Tuhill, your Deputy Chief Fire Officer, has tweeted today that the LGBT+ community is at a higher risk of experience a fire incident than other groups. Please provide copies of the justification for this claim.

Please also provide:

- 1) itemised costs for all materials bought by NFRS promoting Pride Month
- 2) the number of staff who have chosen to wear rainbow epaulettes
- 3) all papers relating to promotional activities in connection with Pride Month (including the notification to staff members that rainbow epaulettes (and any other similar items) were available for staff to wear.
- 4) details of equivalent activity taken in relation to reducing discrimination against people with the protected characteristics listed in the Equality Act 2010

Response:

Please be advised that the Freedom Of Information Act relates to specific recorded information held by an authority. The tweet is on an account that clearly states 'Tweets and opinions are my own, not that of the Service.' Searches were conducted to locate the information and I can now confirm that Northamptonshire Fire and Rescue Service does not hold any information relative to your request.

- 1) The cost of the reusable epaulettes was £1388.02 plus VAT.
- 2) Searches were conducted to locate the information and I can now confirm that Northamptonshire Fire and Rescue Service does not hold any information relative to your request.

3) See below and S40(2) exemption

Pride Epaulets/Sliders

The Operational Equality, Diversity and Inclusion officer is pleased to announce that a quantity of Pride Epaulets/sliders have been secured. These can be ordered from stores for staff to wear during Pride Month or while attending Pride events.





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Please note, these are not personal issue and are on loan so must be returned after each event. If you are attending various events during the busy Pride months, then please hang onto them and return when you have attended all events. Please add in the comments when ordering, the event you need them for or for example Pride month.

There are various ranks and also Fire Fighter ones that can also be used by uniformed Fire Staff, Prevention, Protection. If you have the button style epaulets, please just slide these over the top to make them fit to your shirt.

There are 4 Pride events going on this year and stations/watches/VCS will be attending, I would really value the attendance of anyone who would also like to come and support and join in the celebrations.

4) Please be advised that the Freedom Of Information Act relates to specific recorded information held by an authority. Your request for 'details of equivalent activity' is currently too generic to establish what specific information you actually require. Should you wish to submit a new request for information you will need to be more specific with what it is that you require please. This will assist us to direct your request to the department/s best placed to deal with the request and provide information that is relevant to your query.

Section 17 of the Freedom of Information Act 2000 requires that, when refusing to provide such information (because the information is exempt) is to provide you the applicant with a notice which:

- (a) States that fact
- (b) Specifies the exemption(s) in question and
- (c) States (if that would not otherwise be apparent) why the exemption(s) applies.

The information is exempt from disclosure by virtue of the following exemption:

Section 40(2) – Personal Information

Section 40 pertains to third party personal data. This would not be released under the Freedom Of Information Act unless there is a strong public interest. This is because any release would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.





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One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third party personal data, is exempted unless there is a strong public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life.

Principle a of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. In this case the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification, or equally led an individual to be wrongfully identified as a consequence.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel the principle a would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments. This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.





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APPEAL RIGHTS

If you are unhappy with how your request has been handled or you do not think the decision is correct, you have the right to ask for a review of the decision.

Prior to lodging a formal appeal you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again

The quickest and easiest way to have the decision looked at again is to telephone the case officer. That person will be able to discuss the decision, explain any issues and assist with any problems.

Appeal

If you are dissatisfied with the handling procedures or the decision that the Service have made under the Freedom of Information Act 2000 (the Act) regarding access to information, you can lodge an appeal to have the decision reviewed.

Appeals should be made in writing within 20 days of receipt of your reply and either emailed to freedomofinformation@northants.police.uk or addressed to:

**Freedom of Information Manager
Information Unit
Northamptonshire Police Headquarters
Wootton Hall
Northampton
NN4 0JQ**

Where possible the Service will aim to respond to your appeal within 20 working days. However meeting this time scale will depend upon the circumstances and complexity of the issue.





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The Information Commissioner

After lodging an appeal with the Service, if you are still dissatisfied with the decision, you may make an application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make an application to the Information Commissioner please visit their website at www.ico.org.uk Alternatively, telephone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Phone: 0303 123 1113

Northamptonshire Fire and Rescue Service
Service Headquarters
Darby House
Darby Close
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