



Access to Records Policy

March 2019

Our Mission

The West Yorkshire Archive Service exists to preserve the past, serve the present and protect the future. We do this by collecting and looking after the unique documentary heritage of the region and by helping members of the public use and enjoy these records.

Preserving the past, serving the present, protecting the future

Our Vision

To provide a welcoming and engaging service that will inspire people to use the archives of West Yorkshire, enabling them to celebrate their identity and understand their past, present and future.

Introduction

The West Yorkshire Archive Service (WYAS) is committed to making the original, printed, microform and digital records in our care accessible to as wide an audience as possible. However, in some cases we are prohibited from making records available for research due both to the restrictions set out in legislation (particularly legislation relating to the privacy of personal data) and to the physical condition of the record.

This statement of policy is intended to regulate the access by service users to records held by the service where restrictions do apply.

This policy sets out the reasons why some records are under restricted access, the restricted access periods applied and ways to apply for access to such records.

This policy is issued in March 2019 and will be reviewed and updated as necessary every three years or when there are alterations to relevant legislation.

Reasons to restrict access to information

West Yorkshire Archive Service will make all of the records (or the information they contain) that it holds routinely available for public consultation and research unless access is:

- Prevented by statutory exemption (see below)
- Against the wishes of a private depositor
- Likely to risk loss of a depositor's property
- Likely to cause physical damage to an item
- Provided for by a surrogate copy (with the aim of preserving the original)

The restrictions outlined above may be waived:

- For depositors consulting their own records subject to adequate identification and preferably with advance notice
- For researchers authorised (in writing) by the depositor, preferably with advance notice
- For Government security or law enforcement agencies, in line with the provisions of the Freedom of Information Act.

Relevant Legislation

The statutory framework for access to records held by West Yorkshire Archive Service is provided principally by the following:

- Local Government (Records) Act 1962
- Local Government Act 1972 (s.224)
- Public Records Acts 1958 & 1967
- General Data Protection Regulation 2016 (hereafter "GDPR") and the Data Protection Act 2018 (hereafter "DPA") which together form UK data protection law
- Freedom of Information Act 2000 (hereafter "FOIA")
- Constitutional Reform and Governance Act 2010
- Representation of the People Act 2002
- Environmental Regulations 2004
- Church of England Parochial Registers and Records Measure 1978, amended 1998
- Manorial and Tithe Documents Rules issued under the Law of Property Acts 1922 & 1924 and the Tithe Act 1936
- The Access to Health Records Act 1990

Standard Exemptions

Court Records

(Including: Quarter Sessions, Petty Sessions, Magistrates Courts, County Courts), FOIA s.32, Sexual Offences (Amendment) Act 1992 s.1

- All court records are covered by an absolute exemption period of **24 years** (FOIA s.32).¹ Certain categories of people, including ex-offenders, are allowed access to some information in exempt court registers outside the provisions of FOIA. Anyone requiring access to records less than 24 years old should obtain authorisation from the appropriate court.
- Court records between **24 and 100 years** old may contain sensitive personal data exempt under FOIA s.40 and data protection law. Anyone requesting access to court records between 24 and 100 years old should complete either a Data Subject Access Request Form or a Research Request Form.
- Adoption Registers may include exempt information under data protection law and the Adoption and Children Act 2002. Anyone requesting access to information in adoption records should complete either a Data Subject Access Request Form or a Research Request Form.

Please note that the appropriate court may need to be contacted for permission prior to any release of information from the archives.

Coroners' Records

FOIA s. 32

- Generally exempt for **24 years**. Coroners' records are treated as Court records under FOIA once they have been transferred under the Public Records Act and are covered by an absolute exemption until they are 24 years old.²
- Coroners' records between **24 and 75 years old**, may contain sensitive personal data (e.g. witness statements). For access to information in coroners' records between 24 and 75 years old, please complete a Research Request Form

Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

¹ Following changes made to FOIA 2000 s.62 by the Constitutional Reform and Governance Act 2010 the period covered by the absolute exemption (FOIA s.32) will decline in accordance with the schedule laid out in the Freedom of Information (Definition of Historical Records) (Transitional and Saving provisions) Order 2012 (ref: SI 2012, no. 3029) which can be viewed here: <http://www.legislation.gov.uk/ukxi/2012/3029/schedule/made>

² See Footnote 1 in respect of the reduction of the period covered by the absolute exemption under FOIA s.32)

Prison Records

Prison Service Order 1251 (implementation date 22 Aug 2005), FOIA s.31, s.40, GDPR, DPA and Sexual Offences (Amendment) Act 1992 s.1

- Records containing sensitive personal data are exempt for **100 years** (may include Execution registers, registers of officers, chaplain's journals, medical officer's journals etc.)
- Medical records and prisoners' calendars which identify victims of sexual offences – exempt for **100 years**
- Prison plans – exempt **Indefinitely**

Anyone requesting access to information in restricted records should complete either a Data Subject Access Request Form or a Research Request Form.

Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

National Health Service records

FOIA s.38, s.40, s.41, s.44, GDPR, DPA and SI 2000 No.413

Records containing sensitive personal data are exempt for **100 years** (except Registers of Deaths which are open).

If it is unclear when an individual was born, make the following assumptions, following Best Practice Guidelines developed by Colin Gale and Catherine Redfern, *After the Hundred Year Rule*, Health Archives Group, 2004 and add the following amount of years to the most recent date of the records:

- Medical record of adults – **add 84 years**
- Medical records of children – **add 93 years**
- Medical records of infants – **add 100 years**

For further guidance from the National Archives on access to NHS Records transferred to a local place of deposit under the Public Records Act see

<http://www.nationalarchives.gov.uk/documents/information-management/access-to-nhs-records-transferred-to-places-of-deposit.pdf>

For further guidance on access to historical mental health records held by West Yorkshire Archive Service see User Guide 6 – Access to Mental Health Records.

Local Authority records

Local Authority records [including: West Riding County Council, West Yorkshire Metropolitan County Council, Metropolitan District and Borough Councils, Rural and Urban District Councils, Civil Parishes and Townships] come under the jurisdiction of FOIA and will generally be presumed to be open except for:

Legal Actions or Investigations

Records relating to legal actions or investigations, are exempt for **24³ years** under FOI s.30 (1) and where data protection and other legislation applies in relation to personal data (e.g. minutes giving case details of children in care) are exempt for **100 years**.

Specific categories of local authority records are exempt for longer periods:

Adoption Records, Children's Homes, Reformatory Schools and other Social Services records containing personal data

FOIA s.40, s.41, GDPR, DPA, SI 2000 No.415, Adoption and Children Act 2002

For access to information in social services records less than **100 years** old, those with a *bona fide* interest, such as adopted children, should apply in the first instance to the relevant Social Services department or complete a Research Access Request Form or Data Subject Access Request Form as appropriate. Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

School records

FOIA s.40, GDPR, DPA and SI 2000 No.414

Following a ruling in 2011 by the Information Commissioner in a Decision Notice issued under the FOIA s.50 (ref: FS50314844), the West Yorkshire Archive Service will apply the following guidelines:

- Log Books - exempt for **30 years**, unless they contain sensitive information about individuals in which case they will be exempt for **75 years**, unless the sensitive information relates to children in which case they will be exempt for **100 years**
- Managers' and Governors' minutes – exempt for **30 years**
- Admission Registers – exempt for **100 years**
- Punishment Books – exempt for **100 years**

We will do our best to assist individuals seeking information about themselves, and they should in the first instance complete a Data Subject Access Request Form for

³ Following changes made to FOIA 2000 s.62 by the Constitutional Reform and Governance Act 2010 the period covered by this exemption (FOIA s.30 (1)) will decline in accordance with the schedule laid out in the Freedom of Information (Definition of Historical Records) (Transitional and Saving provisions) Order 2012 (ref: SI 2012, no. 3029) which can be viewed here:

<http://www.legislation.gov.uk/ukxi/2012/3029/schedule/made>

access to records subject to access restrictions. Individuals conducting historical research wishing to access exempt records should in the first instance complete a Research Access Request Form.

Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

Poor Law and Public Assistance Institutions

FOIA s.40 and GDPR, DPA

- Sensitive medical records and creed registers – exempt for **100 years**

Electoral Registers

Representation of the People Act, 2000 and SI 2006 no.752

The current electoral register is available primarily for electoral purposes alone and enquirers should apply to the office of electoral registration for the relevant Metropolitan Council.

From 2002 there have been two versions of the electoral register produced: the full version and an edited version of the full register.

Non-current electoral registers are open (both edited and full versions for post-2002 registers) but there are restrictions on copying the full version.

Police records

West Yorkshire Police Force Policy on Archives and Corporate Memory

- Personnel information – exempt for **100 years** from the DOB of the individual
- Disciplinary or complaint records - exempt for **100 years** from the DOB of the individual
- General policing issues - exempt for **30 years**

Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

Access to Other Records Containing Personal Information

Certain records which contain personal information about living individuals may be exempt under data protection legislation. We will do our best to assist individuals seeking information about themselves, and they should in the first instance complete a Data Subject Access Request Form for access to records subject to access restrictions. Please note that the depositing body may need to be contacted for permission prior to any release of information from the archives.

Privately Deposited Records

Some of these records may be subject to exemption periods agreed between West Yorkshire Archive Service and the depositing body. The principal types of privately deposited records which may be exempted are:

- Records of religious bodies
- Charity records
- Business records
- Personal records
- Trade Union records

West Yorkshire Archive Service may apply specific exemption periods in consultation with the depositing body of any privately deposited collection. These exemptions include:

Methodist records

- Minutes - exempt for **30 years**
- Confidential material – exempt for **75 years** (complaints, disciplinary records, assessment files)

Roman Catholic records

- Registers of baptisms, marriages and deaths – exempt for **100 years**

Appendix A: Research Request Form



Application for access to information in exempt records for scientific or historical research or statistical purposes in accordance with the safeguards under Section 19 of the Data Protection Act 2018

Name of applicant

Address

Day-time telephone

Email

(If relevant) Name of university/college/sponsoring body (e.g. publisher or local history society). **Please enclose a supporting letter or other documentation from your tutor or sponsoring body.**

I request permission to consult the below named records. **Note: Each person wishing to consult records must complete a separate application form. Access to the records will *only* be given to the person named on the form.**

Reference, description and dates of documents to be used:

I require access for the following purpose/s:

Application for access to information in exempt records for scientific or historical research or statistical purposes in accordance with the safeguards under Section 19 of the Data Protection Act 2018

**RESEARCHER DECLARATION
(TO BE FILLED IN BY APPLICANT)**

I _____ of _____
request permission to consult the records written overleaf and agree to make use of any personal data contained therein in compliance with the safeguards for processing under s.19 of the Data Protection Act 2018. I confirm that:

- The purpose of the processing is exclusively for scientific or historical research, or statistical purposes.
- My research will not be used to support measures or decisions with respect to particular individuals.
- My research will not cause or be likely to cause substantial damage or substantial distress to any person who is the subject of those data while he or she is alive or likely to be alive (assuming a life span of 100 years).
- I will not make the results of my research available in a form that identifies a data subject without the consent in writing of the data subject or the data controller.
- I agree that the staff of West Yorkshire Archive Service may, at any stage in my research, read any notes made from the exempt documents, or inspect any proposed publication based upon my research.

I understand that I shall become responsible for compliance with the General Data Protection Regulation and the Data Protection Act 2018 in relation to any processing by me of personal data obtained from the records written overleaf.

Signed: _____ Date: _____

Return to: Collections Coordinator, West Yorkshire Archive Service, West Yorkshire Joint Services, Nepshaw Lane South, Leeds, LS27 0QP

Official Use
Authorised by:
Date:
Permission for copies: Yes/No

Application for access to information in exempt records for scientific or historical research or statistical purposes in accordance with the safeguards under Section 19 of the Data Protection Act 2018

Notes for the applicant

1. West Yorkshire Archive Service cannot guarantee that access to records will be given. Should your application for access be refused, you will be notified of this.
2. You will be provided with a copy of the authorised permission form, which must be brought to West Yorkshire Archive Service on each visit to view the exempt material.
3. **Access to exempt material will *only* be given to the person and documents named on the form. Anyone you wish to bring with you when viewing material will need to apply for access on a separate permission form.**
4. If you wish research to be undertaken by a third party on your behalf, this person will also require a separate form granting them permission to view records.
5. In order to view archive material, you will need to bring suitable forms of identification with you. These will be required on *every* visit to the archives. Suitable forms are:

Either:

Current Driving Licence

Or:

- One official document showing your name and current address in **printed** form, such as a current utility bill, bank or credit card statement, social security book *and*
- One official document showing your name and signature, such as a credit/debit card or passport.

Appendix B: Data Subject Access Request Form



Data Subject Access Request for information in exempt records held by West Yorkshire Archive Service

This form is to be used for those people wishing to access information about themselves (or another living individual) in exempt records held by West Yorkshire Archive Service.

Under the General Data Protection Regulation and the Data Protection Act 2018 you have the right to enquire of any organisation about whether they hold personal information about you and unless an exemption applies, to receive a copy of that information. It is possible that an exemption may apply in respect of these rights in relation to any material we hold for archiving purposes in the public interest, but we will undertake all reasonable measures to comply with your request regardless.

A data subject is the individual about whom the personal data relates. If you are applying for information about yourself, then you are the data subject. (Please complete Sections A, B and D). If you are acting on behalf of the data subject then please complete Sections A, B, C and D.

To enable WYAS to deal promptly with your request for personal information, and to satisfy legal requirements to ensure the identity of data subjects, please enclose with this form

- Proof of identity relating to the data subject (and relating to yourself if you are not the data subject) (e.g. copy of a driving licence, birth certificate, 2 recent utility bills)

Any request will be answered within 1 month.

Section A

It will help with your request if you can be as specific as possible. Please state in your own words what information you require. Where possible, please provide specific reference numbers of the exempt documents that you require access to.

Section B

Please fill in the following:

Name of data subject	
Address of data subject	
Day-time telephone no.	

Section C

If you are not the data subject, and you wish to access information on behalf of someone else (known as the 'agent' of the data subject) please complete the following details:

Agent's name	
Agent's address	
Day-time telephone no.	

Agent's relationship to data subject

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I attach written authority to act on behalf of the data subject Y/N

If no written authority is provided, WYAS may wish to seek confirmation of your identity and of your right to act on behalf of the data subject.

Please tick as appropriate:

I would like the reply to this request to be

- Sent to the address of the data subject
- Sent to the address of the agent
- Sent to the address of the data subject and the agent

Section D

I confirm that I am the data subject/acting on behalf of the data subject and that the information given on this form and any attachments are accurate and true.

Signature	Date
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Data Protection

West Yorkshire Archive Service collects your personal information in order to process your request and to compile anonymous statistical information about the use of our collections. We do not pass on your details to any other organisation.

Marketing Communications

Across the five Archive District offices (Bradford, Calderdale, Kirklees, Leeds and Wakefield) we run a number of events. If you would like us to keep you updated from time to time about events, services or information which we think may be of interest to you, please tick the box below to show your consent.

<p>Official Use only Date enquiry received Deadline for reply (1 month) Date of reply Length of time spent on enquiries</p>
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