



**Hampshire
& Isle of Wight**
FIRE & RESCUE SERVICE

Information Compliance Team

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Sent by email to:

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Date: 31 January 2022

Our Reference: FOI 110 22-23

Enquiries to: Information Compliance Officer

Freedom of Information Act 2000

Dear [REDACTED]

We are writing in respect of your application for the release of information held by the Service which we received on 4 January 2022. We confirm that we have now completed our search for the information requested.

You asked:

I would like to submit a FOI request. I wish to receive all fire investigation reports from the past 5 years on any accidental (non-deliberate), residential dwelling fires involving at least one fatality in your authority area. I would like this information in the form of fire investigation reports with any sensitive information (names/addresses) redacted.

Our answer:

We can confirm that we hold the information requested however, we are refusing to provide it as it is exempt from disclosure under the Freedom of Information Act 2000 (the Act).

Court Records

Fire Investigation Reports record the results of our investigations into the cause/s of fire and the surrounding circumstances that contributed to the fire. They are created solely for the purpose of providing expert evidence for use in coroner's inquiries (falling within Section 32(4)(b) of the Act) and criminal court proceedings. Consequently, they are exempt from disclosure as per Section 32 (1)(a) of the Act as they are a court record. As this exemption is an absolute exemption, it is not subject to a Public Interest Test.

Law Enforcement

We are also refusing to provide the information on the grounds that releasing this information would be likely to prejudice the detection, apprehension and the prosecution of crime (per Sections 31(1)(a) and (b) of the Act), the exercise of the public functions of the coroner (per Section 31(1)(g) of the Act) and coroner's court proceedings (per Section 31(1)(h) of the Act) specifically relating to ascertaining the cause of an accident (under Section 31(2)(e) of the Act).

Fire Investigation Reports are created to provide expert evidence as to the cause of fire (and surrounding circumstances) to both the police and the coroner for their enquiries. They are also used in both the criminal court and coroners court as evidence. These reports provide an explanation of the cause of fire and how that conclusion was reached. While we are not questioning the motives of the applicant, the release of this information would reveal what investigators consider when determining the cause of fire. Providing this information to the world at large under the Freedom of Information Act 2000 would enable criminals seeking to commit arson and allow them to take steps to disguise the fact that a crime was committed by manipulating circumstances to mislead investigators. This would cause increased risk that crimes are not detected.

Additionally, the release of this information, especially where the final determination has not yet been reached and where the criminal court case has not yet concluded, would be likely to prejudice the fair trial of individuals. It would also enable individuals to apply undue pressure on the coroner to come to a specific conclusion as to the cause of death, negatively impacting the coroner's independence. Further, decisions about the final cause of death can be determined in a coroner's court. The release of the Fire Investigation Report prior to this would be likely to negatively impact the proceedings of this body as it would impact on the ability of the court to control the release of information as part of their proceedings.

Additionally, there is a risk of precedent setting. Releasing the reports in response to this request may mean we are unable to prevent the release of information in the future to other requests, including request for non-accidental (deliberate) fatality investigation reports. This is especially problematic as the Freedom of Information Act 2000 could then be used to alert criminals that there is an ongoing investigation relating to an action they have taken.

Public Interest Test

For this exemption to apply, the public interest in maintaining these exemptions must outweigh the public interest in disclosing the information.

Public Interest in Disclosure

There are several reasons in favour of disclosure to the public at large as follows:

- promote transparency in how we act and show that we are acting appropriately in the way we operate.
- increase the public's understanding and knowledge of the fire investigation process and how investigations are conducted.
- show how the work of fire and rescue services supports other public sector organisations, namely the police, the coroner and courts, in performing their duties.

Public Interest Against Disclosure

There are also significant reasons why providing the information is not in the public interest as it may:

- enable criminals to cover up evidence of crime leading to increased levels of criminal activity
- undermine the right to a fair trial of persons accused of a crime
- increase risk of criminals being alerted to an ongoing investigation enabling them to evade apprehension
- cause undue pressure to be exerted on the coroner to conclude in line with public sentiment, or private interest, rather than independent determination
- compromise the ability of the court to control its proceedings relating to disclosure of information

Conclusion

Ensuring that we do not compromise the ability of partner organisations to conduct their activities, especially when it comes to the prevention and detection of crime, is of high importance to the Service, as is ensuring that individuals right to fair trial is not compromised. As the release of this information would be likely to compromise this, the balance of public interest favours not disclosing the information.

Any future correspondence with Hampshire and Isle of Wight Fire and Rescue Service in relation to this matter should be sent to the Information Compliance Officer at the above address.

If for whatever reason you are unhappy with our response you may request an internal review by contacting DP@hantsfire.gov.uk or by writing to the Information Compliance Team at the above address.

Should you remain dissatisfied you can appeal against the internal review decision by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

Yours sincerely

Information Compliance Officer
Information Compliance Team
Hampshire and Isle of Wight Fire and Rescue Service