



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

Information Compliance Team

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Sent by email to:

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Date: 19 December 2024

Our Reference: FOI 113 24-25

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 21 November 2024. We can confirm that we have now completed our search for the information requested.

You asked:

34 Hamburg House which is a flat within the Admiralty Quarter complex.

From 27th April 2021 to date, copies of all correspondence passing between Admiralty Quarter (Portsmouth) Management Ltd (AQPM), including any member of its board acting in that capacity, and Hampshire and Isle of Wight Fire & Rescue Service concerning fire safety at Admiralty Quarter, Portsmouth together with copies of any notes, records or minutes of meetings, telephone calls or other form of communication (including but not limited to copies of text or WhatsApp messages) had with AQPM (and any individual board member) concerning fire safety at the said premises.

Our answer:

We can confirm that we hold the information requested. However, we are refusing to provide this as per Section 30 (investigations and proceedings conducted by public authorities) of the Freedom of Information Act.

Investigations and proceedings conducted by public authorities

We are refusing to provide this information per Section 30(1)(a) and 30(1)(b) of the Freedom of Information Act 2000. Section 30(1)(a) provides that information is exempt from disclosure where it would prejudice any investigation that a public authority has a duty to conduct to

determine whether any person should be charged with a criminal offence. Section 30(1)(b) provides a similar exemption for investigations conducted by a public authority which may lead to a decision to institute criminal proceedings.

The Regulatory Reform (Fire Safety) Order 2004 (the "Order") gives fire and rescue services the power and duty to investigate potential offences under the Order, per Article 26(1). The information requested for Admiralty Quarter Complex has been collected as part of an investigation under the order and will be used as evidence to determine whether any person should be charged with an offence.

Please note that this does not mean that a decision to prosecute has yet been made or will be made in the future. The legislation applies to information collected as part of investigations to determine whether a charge should be made and does not require a decision to have been taken for the exemption to be applied.

Public Interest Test

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

Public Interest for Disclosure

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

- There is a general interest in public bodies being transparent about their activities to the public.
- It would evidence that Hampshire and Isle of Wight Fire and Rescue Service takes appropriate measures to ensure the fire safety of buildings via proper evidence collection.
- It would give further information into how investigations are conducted, adding to public awareness and debate.
- It would give more information to residents of the properties, allowing individuals to act.
- There is a particular public interest in providing information relating to apartment buildings.

Public Interest Against Disclosure

There are also significant reasons why providing the information is not in the public interest.

- There is an inherent public interest in our being able to undertake our statutory functions under the Order. The Order's purpose is to keep people safe from fire by ensuring there is an effective mechanism to require that buildings comply with fire safety legislation.
- It is essential for us to be able to carry out our duties in a planned, objective and balanced manner, carefully collecting and considering evidence as part of the investigation. Key to this is ensuring that we can maintain control over all material that forms part of our investigations. Failure to do so would damage both the credibility and

effectiveness of any actions or decisions we undertake based on the information gathered, endangering lives.

- Co-operation between us, as the regulator, and the Responsible Persons for any property is important to enable decisions to be taken in a safe space without undue bias from the public or regulated persons. This is especially the case where information may have been volunteered. Investigations are more effective, and less time-consuming, where people can volunteer information without being compelled. There is a clear public interest in not deterring voluntary supply of information to save public costs and time required by compelling information.
- Compelling people to provide information can also cause delays and there is a clear public interest in ensuring properties' fire safety is improved as soon as possible.
- Further, to maintain this co-operation, persons providing information must be protected. This is because of the potentially adverse effects to parties caused by the disclosure of evidence they have provided, or which relates to them.
- Release of investigation information could also enable individuals to take their own civil actions which would undermine any investigation or prosecution being undertaken by us, or that we may take in the future. It could, in the worst case, prevent us from being able to prosecute under the Order, preventing appropriate levels of fire safety being achieved. This is especially the case where our investigations have not yet concluded.

Conclusion

Ensuring that we can take appropriate steps to ensure that properties have appropriate fire safety measures in place is key to saving lives, which is our core function as a fire and rescue service. Our ability to investigate and prosecute individuals failing to take appropriate steps to secure the fire safety of any premises is an important tool to achieve this objective. Providing this data would prejudice our ability to remain a robust and efficient regulator of fire safety. It would also undermine, and consequently have a prejudicial effect on, the decisions taken following the investigation, opening them up to challenge and further legal action. Such a disclosure would therefore delay, or prevent in the worst cases, actions being taken to improve the fire safety of a premises. This has the potential to risk lives and cause harm to individuals.

Therefore, there is a clear public interest in ensuring we are able to perform our statutory function of investigating and prosecuting individuals under the Order and this interest outweighs the public interest in disclosure.

The above concludes our investigation into this matter.

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 Data Protection Officer at the above address.

Should you remain dissatisfied you can appeal against the internal review decision by contacting the Information Commissioners Office. This can be done online at

www.ico.org.uk/foicomplaints or by post to The Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

Yours sincerely

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