



**Sent by Email:**

To: Mr Stephen Whiteside

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ICO Reference: FER0693883

Enquiries to: Information Governance  
& Audit Co-ordinator

Dear Mr Whiteside,

We are writing to informally resolve your complaint regarding our handling of your Freedom of Information Requests which you have lodged with the Information Commissioner's Office (ICO).

We have reviewed the documents provided to you in our correspondence dated 12 May and have determined that unnecessary redaction occurred. Please find attached a copy of the documents previously sent with the corrected redaction.

In these documents, the following information has remained redacted. The names of personnel within Hampshire Fire and Rescue Service (HFRS), in one case the mobile phone number of a member of HFRS, an email address of a member of HFRS and the name and title of one person who is not a member of HFRS.

Please consider our redaction to be a refusal under regulation 12(3) and regulation 13 of the Environmental Information Regulations 2004 (EIR). We confirm that this information is held by HFRS however it is exempt from disclosure for the following reasons. Regulation 12(3) makes personal data that is not the data of the applicant (i.e. not about yourself) non-disclosable otherwise than in accordance with Regulation 13 EIR. Regulation 13 EIR states that information that personal data of which the applicant is not the data subject "shall not" be disclosed if a condition in either regulation 13(2) EIR or 13(3) EIR is fulfilled.

Regulation 13 (2) EIR (the "first condition") states that where a public disclosure otherwise than under these regulations would contravene any of the data protection principles (regulation 13(2)(i) EIR).

Section 1 of the Data Protection Act 1998 (DPA) states that "personal data" means data that relates to a living individual who can be identified from that data or from those data and other information which is in the possession of, or likely to come into the possession of, the data controller. We assert that a name of living individuals clearly identifies an individual and as such constitutes personal data, this has been confirmed by the ICO. As our email addresses



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utilise names these have been redacted on the same basis. Further a mobile phone number constitutes personal data in that DPA section 1(1)(b) includes other information that is in the possession of, or likely to come into the possession of the data controller. As we hold records relating to names of members of our service against mobile contact numbers (and you would hold the same if disclosure of the information unredacted had occurred) this information can be used to identify an individual and as such is personal data. Further if you were to phone the number you would either receive a voice mail recording or a direct contact with an individual either way you have gained their name, as such the information would be likely to come into your possession and as such is personal data. As regard the third-party name and title the name is personal data as above and the title also personal data as it can be used to identify the individual.

The question then is does the disclosure contravene any of the data protection principles. We have reviewed Schedule 1 Part 1 of the DPA and have determined that the First data protection principle is relevant, whether the processing would be fair and lawful. As regard the third party we do not consider it fair for us to disclose a private individual's information for someone who is not an employee of HFRS and do not believe that they would have a reasonable expectation that we would do so.

As regard the members of HFRS, in determining fairness of processing we have considered the nature of the information sought, the consequences of disclosure, the employee's reasonable expectations and the balance between their rights and the legitimate interests of the public and yourself in disclosure.

#### Nature of Information Sought

As the information is not sensitive information there is less reason to believe that the disclosure would be unfair.

#### Consequences of Disclosure

We assert that the disclosure would be unfair as it would have an unjustified effect on the employees concerned. The reason for this is that we believe their position within the organisation should not be subject to personally targeted requests that could cause unfair distress. We have systems in place to ensure requests from the public are answered without negative impact on junior staff such as shared inbox accounts.

#### Reasonable expectations

As the information relates to individuals acting in their professional role it is necessary to determine what reasonable expectations they have in relation to the disclosure of their information to the public. In considering this we have looked at the seniority of the individual, whether their role is public facing and our communicated approach to these matters. The individuals in question are junior member of the Service who corresponds with individual members of the public in performance of his role but do not represent the authority generally to the public. Where the individuals do communicate with individual members of the public they do not sign their letters themselves but on behalf of the Chief Officer, as such even in their official communications they do not act personally. In addition, they have no responsibility for any other member of HFRS and perform no management or supervisory function. Further we have spoken to senior members of the Service and explained that their personal data is more likely to be disclosed under a request for information and that this expectation decreases further down the organisational chain. The individuals in question also do not have the ability to direct any expenditure of public funds. As regards asking of consent unfortunately we do not have a record of them having been asked at the time of the original

disclosure, however we have contacted them by phone as regard this disclosure and they are not willing to have their details disclosed. For these reasons, we assert that they hold a reasonable expectation that their information would not be disclosed.

### Balancing rights and freedoms with legitimate interests

It is clearly within the legitimate interests of the public that they be able to communicate effectively with the Service in relation to matters in which they have an interest. However, individual names are not required for either the public or yourself to put forward your concerns to HFRS nor to receive comment on any activity conducted by the Service as there is a departmental email address ([consultation@hantsfire.gov.uk](mailto:consultation@hantsfire.gov.uk)) to which queries can be directed. Furthermore, even if an individual did respond they would respond on behalf of the Chief Officer as stated above and their name may not even be attached to the response, this is because they are acting on behalf of the Service and any information, advice or otherwise given in such communication is deemed to be from the Service. While there is a legitimate interest in the public knowing who senior members of the Service are (for example the Chief Officer on whose behalf these communications occur) this does not apply to junior members of the Service. As such we do not believe that there is a sufficient legitimate interest to justify providing the names of individuals under your request as it does not fulfil the criteria of Schedule 2 6 DPA in so far as names are concerned however the substantive content of the documents attached have been disclosed.

### Summary

Having given due consideration to the Data Protection Principles we do not believe that disclosing this information would be fair within the meaning of the DPA, as such we are refusing disclosure of the information in accordance with regulation 12 and 13 EIR.

Please can you advise if you are content for this matter to now be informally resolved and therefore consider this matter to be closed?

Yours sincerely

Hampshire Fire and Rescue Service Information Governance & Audit Co-ordinator  
Data Protection, Freedom of Information & Environmental Information Regulations