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Government
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Dr James Glockling
Fire Protection Association
Via 'What do they know'

Date: **6 November 2015**

Dear Dr Glockling

Internal review under the Freedom of Information Act 2000 - 1296527

Thank you for your request for a review received on 11 September 2015. I am sorry that you are dissatisfied with our attempts to handle your request under the Freedom of Information Act 2000 (FOI Act). I am the review officer appointed to undertake the internal review and I am writing to provide a response. I had no involvement in the original response to your request.

Background

On the 4th August 2015 you wrote to this Department requesting:

An electronic (database, CSV, or excel) copy of Fire Statistics data as collected for each case via the Incident Recording System (ref: CLG Document 'Incident Recording System' Questions and Lists Version 1.6 " (XML Schemas v1-0p)' from inception to the half-year ending 30th June 2015. Under section 7 of that law, you are obliged to make a copy available to the public.

As a model of how well such case data can be provided to the public with locational Details. I would example the Police Crime dataset that is freely distributed from <https://data.police.uk/>. My request is for full 'case data' that might enable the Fire Protection Association, as the UK's National Fire Safety Organisation and key member of the Fire Sector Federation, to undertake case-by-case cause and effect analyse in association with our own case datasets to better understand fire loss issues and use this knowledge to support our own research and development and provision of risk control guidance.

Cognisant of the need to protect the identities of persons involved I request the exclusion the following question answers from the data you provide: 1.4, 5.23-5.30, 6.3, 8.31-8.34, 9.17-9.19, 9.23.

The Fire Protection Association is the UK National Fire Safety Organisation, a not-for-profit company promoting fire safety in the home and resilient and safe business within the UK. We invest around £1M per year in this research and distribute our work freely (see www.RISCAuthority.co.uk & www.theFPA.co.uk). Access to this data by us (and other organisations) is considered paramount to achieving our goals

and it remains odd to us that in this time of openness access to it remains so elusive. We historically negotiated access to this dataset under direction from DCLG to seek approval from all CFO's which was achieved with the grateful assistance of CFO - this document, which was never honoured, can be made available to you as part of this FOI request if of interest

On 2nd September 2015, my colleague Adebola Dada wrote to you, stating that your request had been considered under the FOI Act, and confirmed that the Department for Communities and Local Government held the information requested. She refused to disclose the requested information issuing a refusal notice stating that the information was exempt from disclosure under section 22(1) of the FOI Act, as it is intended for future publication.

On 11th September 2015 you wrote to the Department requesting an internal review of the decision to withhold information. The points you made were as follows:

- a) *It is unclear from this statement if what 'the department intends to publish' is the specific dataset I am asking for. Without guarantee that this sentence is related to my request, and that my request will be wholly satisfied upon eventual release, I risk waiting over a year to receive data unrelated to my request, or not complete enough to be useful to my endeavours. I believe your response must legally be linked to the specifics of my request; which it is not. I have been very specific in my request of the fields of the IRS database I wish to have access to. Out of fairness (and I believe you are legally obliged) I would like the response to relate to the specifics of my request.*
- b) *(b) My second point is that I have had assurances of receiving this data since 2010 when, in accordance with DCLG's instruction to me then I was to seek the authority to access the data from each F&RS (I was told then that they owned the data). This was achieved on 16/06/2010 following great effort and expense on FPAS's part and with great assistance from CFOA with the signing of the DATA SHARING PROTOCOL with FPA. When presented to DCLG this was not honoured. Please forgive me for becoming impatient but given the history behind this a promise of 'intent to publish', which has existed for as long as I can remember, could be viewed as another delay tactic.*
- c) *(c) DCLG already allow many groups to access this data. It supports all AD'B' Fire development work and is provided in full to groups conducting work on behalf of DCLG (such as BRE). Access is also provided to others conducting their own projects also, such as the recent Business Sprinkler Alliance work on the Cost benefit of Sprinkler Systems. I am obviously interested to know why the data might be fit for release currently for these purposes, but not for others or public consumption? (this also suggests the data is already quality assured - which you state later is another barrier to release)*

Additionally you state that currently 'maintaining the exemption outweighs the public interest in disclosing the interest at this time'. I object to this for the following reasons:

- (a) *The government itself has asked industry to determine Fire Policy for the UK going forward and this role is admirably handled by the Fire Sector Federation. The costs in terms of time and effort supporting this are immense yet the provision of basic statistical toolsets, a requirement to support any government initiative or policy change are being withheld from them by the rejection of this request. How is it in the public interest to hinder the work of the very groups set up to undertake life-safety relevant work formerly conducted by government?*
- (b) *There are currently some ground-breaking projects on going seeking to tackle urgent issues that demand access to this dataset as described in my request. As an example I would site the on-going problems with unwanted and false automatically generated alarms. Such is the problem that many F&RS' are not turning out for them - risking making 'a very big mistake' every time; those that are turning out might be wasting large sums of already scant money; insurers now give no credit for their installation since they may not receive a FRS response; and users are turning the systems off to reduce the inconvenience of disruption and risk of FRS fines for false call out. Pivotal to understanding the situation and seeking a solution is access to the IRS data requested. Again I would ask, how is withholding this data for such an urgent issue (one of many) in the public interest?*

Appeals Officer's Response

Section 22 of the FOI Act: information intended for future publication

I have assessed the information that you requested and, after detailed discussion with the policy area responsible for this dataset, concluded that the citation of section 22(1) of the FOI Act was incorrectly applied. Whilst it is true that the policy area concerned have a very real intention to make some of the information you requested available to the general public, it is incorrect to say that all of it will be put in the public domain and to apply the section 22 exemption generally in that way. The information you have requested, as you know, contains personal data and some of that is classed as sensitive personal data under the Data Protection Act 1998. This could not legally have been included in any publication. Additionally the amount of data cleansing required together with issues that still need to be resolved concerning the legal "ownership" of this information make a publication date of Autumn 2016 only an initial estimate with no firm basis. This timeframe was given with the best of intentions by the policy area, but I could see no firm evidence that this date would be met. I understand that a more formal project has since got underway and plans are being put in place which should enable a more robust and achievable timescale to be confirmed. The team will keep users in touch with progress through the usual fora.

Section 40(2) of the FOI Act: personal data and work involved in data consideration

The information you have requested is a dataset that contains in excess of three and half million entries, it also contains a large amount of personal data that would need to be redacted before any release to you could be made. Section 40(2) of the FOI

Act provides an absolute exemption for personal data about third parties where a disclosure would contravene any of the data protection principles in Schedule 1 to the Data Protection Act 1998 (DPA). The first data protection principle requires that processing (including disclosure) of personal data must be fair, in accordance with the law and comply with one or more conditions in Schedule 2, and additionally for sensitive personal data Schedule 3, to the DPA.

Further guidance on section 40(2) can be found on the website of the Information Commissioner's Office (ICO): <https://ico.org.uk/media/for-organisations/documents/1213/personal-information-section-40-and-regulation-13-foia-and-eir-guidance.pdf>

Although the information requested is held electronically, I am fully satisfied that just electronically redacting certain fields would in no way meet our obligations under the DPA. Buried within the body of the dataset is other personal data, and when combined with other fields some data would be classed as sensitive personal data. To ensure that the Department has complied with the DPA it would have to manually check and redact, where necessary, the entire data set of over three and a half million entries (for certain variables). This is impossible for the Department to do in the timeframe allowed under the FOI Act and to try regardless would impose a grossly oppressive burden on the organisation. For this reason it is my conclusion that the correct response, rather than relying on the exemption at section 22, should have been to refuse to comply with your request, under section 14(1) of the FOI Act, on the basis that it was "vexatious".

Please be assured that I am using the term 'vexatious' only because this is the word used in the Act. It is not to imply that we consider your request to be vexatious in the more traditional, dictionary definition of the word.

Section 14(1) does not define what constitutes a "vexatious" request but this can include circumstances where a request is likely to cause a disproportionate or unjustified level of disruption. The Information Commissioner's Office has issued guidance on the application of section 14 which states that a public authority:

[..may apply section 14(1) where it can make a case that the amount of time required to review and prepare the information for disclosure would impose a grossly oppressive burden on the organisation.

However, we consider there to be a high threshold for refusing a request on such grounds. This means that an authority is most likely to have a viable case where:

The requester has asked for a substantial volume of information AND

The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO AND

Any potentially exempt information cannot easily be isolated because it is scattered throughout the requested material.]

I believe that your request meets the high bar set by the ICO due to the quantity of information within scope and the amount of the personal data contained within that would need to be assessed.

The ICO suggests that if section 14(1) is cited then the public authority considering the request might discuss with an applicant scaling down the information request. Having looked into the information you have requested, even taking out the obvious fields that contain personal data that you may agree to remove, your request would still leave the personal data contained within the text of other fields and the very considerable work involved in cleansing and providing to you what information it was appropriate to provide.

Further guidance on section 14(1) can be found on the ICO website:

<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

I realise that the outcome of my review will be a disappointment to you but hope that this considered response will reassure you that the Department does intend to make some information available when resources for cleansing and legal issues have been addressed.

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

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