



**Finance and Corporate Resources**  
**Executive Director Paul Manning**  
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Mr Jim Thomas  
[request-559016-1a8a80ba@whatdotheyknow.com](mailto:request-559016-1a8a80ba@whatdotheyknow.com)

**Our ref:** SASG/2/9  
**Your ref:**  
**If calling ask for:** Stuart McLeod  
**Phone:** 01698 454815  
**Date:** 5 April 2019

Dear Mr Thomas

**Freedom of Information (Scotland) Act 2002 (FOISA)**  
**Request for Information – Stadium Safety Certificates**

I refer to your request for information received by the Council on 8 March 2019 in which you ask for the following information:-

- ♦ details and copies of the most recently granted safety certificates for all SPFL Clubs within this Council's remit
- ♦ details of any remedial works / adverse findings from inspections

**Information Provided**

The North and West Stands at the Hope CBD Stadium are both regulated in terms of the Fire Safety and Safety of Places of Sport Act 1987 and general safety certificates are issued annually for each stand. Copies of the certificates, subject to redactions and the withholding of information, which will be explained later, are attached.

Annual physical inspections and annual match day inspections are carried out and remedial works and findings from inspections are as follows:-

- ♦ defects identified in the annual structural inspection report, which were classed as either minor defects or cosmetic repairs, have been addressed
- ♦ emergency lighting unit in the Cross Bar was found to be faulty and has since been repaired
- ♦ fire detector within the Supporters Trust Community Room required to be linked to the fire warning system and this has since been addressed
- ♦ an audibility test of the fire detector was requested to ensure that it could be heard within the Supporters Trust Community Room and this has been carried out
- ♦ public address system had an intermittent fault which has since been repaired
- ♦ a review of all fire doors was to be carried out and this had been completed
- ♦ a review and upgrading of the compartmentation to the cupboard within the first aid room, electrical cupboard in the players' lounge area, laundry room and boiler room was to be carried out and this has been completed
- ♦ a disabled message was appearing on the fire alarm panel and a new alarm panel has since been fitted

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- ◆ comments and observations were also made by the Scottish Fire and Rescue Service (SFRS) in terms of the Fire Risk Assessment which were sent to the Fire Risk Assessor and a response has since been forwarded to the SFRS
- ◆ the fitting of a thumbturn lock to the door entering the corridor to the players' lounge area was requested and has since been fitted

The following works and findings were reported to the certificate holder after the most recent match day inspection held on 22 February 2019 and an update on progress is awaited:-

- ◆ advised that a rolling programme of maintenance should be implemented for the handrails and barriers in the West and North Stands
- ◆ a step in section A / row D of the West Stand was found to be loose and required to be repaired
- ◆ advised that a check of all steps in the West and North Stands be carried out
- ◆ slippery underfoot conditions were observed in a couple of seated areas within the North Stand and it was advised that areas where water collected should be cleaned on a regular basis
- ◆ advised that regular checks of all fire doors including smoke seals / intumescent strips and gaps around the doors should be carried out to ensure they are smoke stopping
- ◆ fire doors at the laundry and in the hospitality corridor had been wedged open and advice was provided to stop wedging doors or to ensure that, where doors were being wedged open, arrangements were in place for them to be closed in the event of an evacuation
- ◆ a damaged socket in the Cross Bar required to be replaced
- ◆ 2 trolleys were found in the Control Room / Directors Box corridor
- ◆ 2 cupboards / stores were found to be unlocked

In addition to the findings listed above, the CCTV operator had noted that 1 CCTV camera was unresponsive, 2 cameras required to be cleaned and there was no log-in for newly fitted cameras. The Safety Officer has since confirmed that the issues with the CCTV cameras have been addressed.

The issue of spectators standing during the match was discussed with the Safety Officer and Police Scotland following the inspection on 22 February 2019. Police Scotland advised that all practical efforts had been made to ensure that spectators were seated during the match. Stadium management have been asked to include measures that are to be taken to tackle persistent standing in seated areas in the Contingency Plan. The issue of spectators standing will be discussed further with the Club and Police Scotland to identify if any other measures can be put in place. The risks of drones flying above and in close proximity to the stadium were also discussed and are to be addressed in the Contingency Plan. The possible installation of a barrier in front of the East Stand was also discussed to reduce the risk of pitch incursions. Should a barrier be installed, stadium management have been asked to consult with the Council's Planning and Building Standards Services to ensure that it's compliant with the Guide to Safety at Sports Grounds (6<sup>th</sup> edition).

### **Information Not Provided**

As mentioned previously, the copies of the safety certificates have been provided subject to the withholding of certain information which has been blacked out or completely withheld. The reasons for the information being blacked out and withheld are as follows:-

### **Information Blacked Out**

The safety certificates have two parts, namely the covering certificate and associated appendices. The blacked out information is located within the covering certificates and are the name of the Holder of the certificates and the names of the Safety Officer and Deputy Safety Officer. This information has been blacked out on the basis that it amounts to personal data of third parties and to disclose the information to the public would breach a data protection principle, all as set down in the General Data Protection Regulation (the GDPR). This is a more detailed explanation as to why the Council considers that this information is exempt from disclosure.

## Personal Data

Personal data is defined in the GDPR as:-

"any information relating to an identified or identifiable natural person". Clearly, given the terms of the information concerned, there are a number of individuals identified within the safety certificates. However, as the GDPR has only recently come into force, there are no court decisions etc as to what is meant by "relating" to. However, the same terminology was used within the former Data Protection Act 1998 and so it seems reasonable at this time to continue to apply the same meaning until explained to the contrary.

In the case of **Efifiom Edem v the Information Commissioner and the Financial Services Authority** C3/2013/0791, the issue as to whether information relates to someone will depend upon the context of that information. The Information Commissioner in his guidance "**Determining what personal data is**" sets out considerations as to what would indicate whether information is personal data. In **Edem**, the court paid particular attention to the following extract from the Commissioner's guidance.

"6. It is important to remember that it is not always necessary to consider 'biographical significance' to determine whether data is personal data. In many cases, data may be personal data simply because its content is such that it is 'obviously about' an individual. Alternatively, data may be personal data because it is clearly 'linked to' an individual because it is about his activities and is processed for the purpose of determining or influencing the way in which that person is treated. You need to consider 'biographical significance' only where information is not 'obviously about' an individual or clearly 'linked to' him."

It is viewed that the identified information is the personal data of the individuals concerned as it is linked to various roles relating to those individuals. In such circumstances, the Council must consider whether it can disclose the information to the public without breaching one or more of the data protection principles set down in the GDPR.

### **The lawfulness, fairness and transparency data protection principle**

This principle sets down, amongst other things, the requirements for the disclosure to be lawful. In particular, it requires the Council to be able to meet one or more of the conditions set down in Article 6(1) of the GDPR.

For the purposes of FOI requests, where the Council does not have consent from the individuals concerned, the issue is whether it could meet the requirements of the lawful basis for processing set down in Article 6(1)(f) of the GDPR. This means that it considers the following matters:-

- a) do you have a legitimate interest or is there a relevant public interest for a member of the public in obtaining the personal data?
- b) if yes, is the disclosure of the personal data necessary to achieve that legitimate interest?
- c) even if the processing is necessary to achieve that legitimate interest, is that overridden by the interests or fundamental rights and freedoms of the individuals concerned?

### **Do you have a legitimate interest or is there a relevant public interest for a member of the public in obtaining the personal data?**

You have not set out any particular personal interest in obtaining this particular information. However, there is a general public interest in relation to ensuring that the Council is undertaking its regulatory/licensing functions and, as the certificates are confirmation of that process, this would indicate that there may be a public interest in disclosing this information. Under these circumstances, the Council was of the view that this part of condition (f) has been met.

**If yes, is the disclosure of the personal data necessary to achieve that legitimate interest?**

In this part of condition (f), the Council must consider whether the disclosure of the information to you

- a) is reasonably connected to that legitimate interest
- b) would advance that legitimate interest
- c) is the least intrusive way for him to obtain this information and
- d) is proportionate.

The Council is of the view that the disclosure of this information to you would not advance the identified public interest for obtaining the information. The disclosure of the personal data of the individuals concerned would not advance transparency in the decision making process. The matters relevant to ensuring safety are set out in the certificates and the appendices. If you had concerns about the issuing of the certificates, the remaining information would meet that purpose.

Taking all of these matters into account, the Council concluded that this part of condition (f) cannot be met by it. This means that the Council could not meet the requirements of Article 6(f) of the GDPR and justify releasing the information to you. Consequently, the Council is refusing to provide the personal data concerned by applying the exemption set down in section 38(1)(b) and (2A) of FOISA.

**Withheld Information**

The Council is completely withholding certain information attached to a particular certificate. The information that has been withheld is the Operations Manual (appendix 1 of the general safety certificate for the West Stand and which is also referred to at appendix 1 of the certificate for the North Stand).

There are two reasons as to why the Council is withholding this information. These are:-

- a) disclosure of this information to the public would or would be likely to prejudice substantially, or likely to prejudice substantially, the effective conduct of public affairs (section 30(c) of FOISA) and
- b) disclosure to the public would or would be likely to, endanger the safety of an individual (section 39(1) of FOISA).

The general explanation of these exemptions arise from the same set of circumstances. The purpose of the general safety certificates is to ensure that ground management have appropriate safety measures in place to secure reasonable safety at the sports ground when it is in use for its specified activity. This would include measures to be taken in the event of an emergency and the Operations Manual sets out the precautions and steps that would be taken in the event of an emergency to protect the safety of persons within the sports ground.

It is to be appreciated that the disclosure of information under FOISA is the equivalent of making the information available to all members of the public without exception. The Council considers that publication to the public would increase the likelihood that someone with ill intent could seek to circumvent these safety measures and so circumvent the safety procedures. This would substantially prejudice the purpose of the regulation/licensing of such stadia and also safety of those attending the stadium. The Council considers that this means that these exemptions from disclosure apply to this particular information.

**Public Interest Test**

However, FOISA requires that the Council consider the public interest test in relation to these exemptions. This means that the exemptions can only be confirmed (and actually applied) where after balancing the respective public interests in favour of and against disclosure of the information to the public. The exemptions can only be applied where the public interests in withholding the information outweigh those in favour of disclosure.

The Council has previously identified the public interest in making the information available to the public. However, it considers that the public interest in maintaining public safety outweighs that public interest. To a certain extent, the information being provided would go some way towards showing that the operator has obtained and holds a relevant safety certificate and so advances the public interest in disclosure.

Consequently, the Council has withheld this information from you in full by applying the specified exemptions.

### **Request for Review**

The Council has a Review Panel to deal with complaints from people who are not happy about the way that it has handled their request. Staff not involved in the original decision will handle any review.

If you want to complain, you can ask the Review Panel to look at the way that we have dealt with your request. It will consider whether we have complied with the requirements of FOISA. Please note that if you wish to complain, you must do so by 8 June 2019. You must explain why you are not happy when requesting a review.

Please note that the Review Panel cannot consider any decisions taken by the Council or actions of the Council or any of its employees or a service provided by it that are not connected to the handling of your request for information.

You should send your request for a review to:-

Ms H Lawson  
Legal Services Manager  
Finance and Corporate Resources  
Floor 11  
Council Offices  
Almada Street  
Hamilton  
ML3 0AA

Alternatively, you can request a review at [foi.reviews@southlanarkshire.gov.uk](mailto:foi.reviews@southlanarkshire.gov.uk).

### **Appeal to the Scottish Information Commissioner**

If you are not happy with the outcome of the review, you can appeal to the Scottish Information Commissioner. The Commissioner will decide whether we have dealt with your request properly. Please see the Commissioner's website at [www.itspublicknowledge.info](http://www.itspublicknowledge.info) for further details.

Yours sincerely



**Geraldine McCann**  
Head of Administration and Legal Services