

**Name:** Paul Evans

**Address:**

**E-mail:** xxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxx  
If calling please ask  
for: Kenny McKaig 01382  
434577

Dear Sir/Madam

**Freedom of Information Request Reference No. 20191227003**

I refer to your request of 23/12/2019

In regards to providing employees name, Regulation 11(2) and (3) of the Environmental Information (Scotland) Regulations 2004 provides that a Scottish public authority shall not make personal data available where it constitutes the personal data of a third party and to do so would contravene any of the data protection principles. The information you have requested constitutes the personal data of a third party and to make it available would contravene the first data protection principle.

I therefore refuse this part of your request.

However the information which I can provide is as follows:

Subject: Freedom of Information request - TM44 Air Conditioning Inspection Report Environmental Compliance Audit of Local Authorities

This request relates to UK Environmental Legislation, specifically TM44 Air Conditioning Inspection Reporting, which is mandatory for air-conditioned buildings. You as a Local Authority are duty bound to actively manage compliance in your Borough and to issue notices/fine non-compliant organisations.

Q1. Have you set up a Building Control Officer to implement an active TM44 compliance programme ? Provide that person's name and details.

**Yes, contact Mechanical Services, City Development, Dundee House, 50 North Lindsay Street, Dundee, DD11LS - Direct No 01382 434000**

Q2. If you have not set up your compliance programme, when do you expect to do so, and who is in charge of the process?

**Programme is set up - Ian Crighton as above.**

Q3. What specific actions have you undertaken to check on all building operators with air conditioning in your Borough?

**All necessary actions are taken directly under the auspices of a dedicated H & S contract set up by Dundee City Council in - house H & S team**

Q4. How do you notify affected organisations, and how much notice do you give them before issuing a fine?

**Not applicable.**

Q5. The fine is £300.00 per building for non-compliance, do you reinvest fines and allocate to the Department issuing notices?

**Not applicable.**

### **How We Handled Your Request**

We believe you have asked for environmental information as defined in the Environmental Information (Scotland) Regulations 2004 ('the EIRs'), so we are dealing with your request under those regulations. To be able to use the EIRs, we must apply an exemption under section 39(2) of the Freedom of Information (Scotland) Act 2002 ('FOISA'). The Scottish Information Commissioner's guidance recommends that public authorities apply this exemption to environmental information and handle requests under the EIRs.

If you would like to find out more about the access to information legislation there is a guidance booklet available on the Scottish Information Commissioner's website:

<http://www.itspublicknowledge.info/nmsruntime/saveasdialog.aspx?IID=5487&SID=5024>.

### **Your Right to Appeal**

If you are unhappy with this reply you may require the Council to review its actions and decisions in relation to your request.

The requirement for review must:-

- be in writing or other permanent form (please address it to me);
- state your name and give an address for correspondence;
- specify the original request for information and the matter which gives rise to your dissatisfaction; and
- be made within 40 working days of the date of this response, although the Council may, if it considers it appropriate to do so, consider requirements for review after that time has passed.

Your requirement for review will be dealt with by the Chief Executive. He will reply to you in writing promptly and in any event within 20 working days. He may:-

- confirm my decision with or without modification;
- substitute a different decision for my decision;

and will give you his reasons for so doing.

If you are unhappy with the Chief Executive's decision you may then appeal to the Scottish Information Commissioner. You must submit your appeal to the Scottish Information Commissioner within six months of receiving the Chief Executive's decision. Further details on the Scottish Information Commissioner's appeal procedure can be found using the direct link [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal) or email [xxxxxxxx@xxxxxxxxxxxxxxxxxxxx.xxxx](mailto:xxxxxxxx@xxxxxxxxxxxxxxxxxxxx.xxxx) or telephone (01334) 464610 or write to Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Yours faithfully

Kenneth McKaig

Legal Manager