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By email

01 August 2017

Dear Siân:

Further to my previous response to your letter of 3 July, I am pleased to write with more detail about the steps I plan to take to provide advice around the transparency of fire risk assessments and other fire safety information.

I recognise the case you have made for increased transparency and that fire risk assessments or other fire safety information should be published in full. I also recognise that it would be valuable for the ICO to issue guidance to public authorities to proactively publish information rather than expecting people to make requests under the Freedom of Information Act and/or the Environmental Information Regulations.

I fully agree that transparency and specifically access to information are essential to residents holding organisations to account and to gaining a fuller understanding of the issues surrounding fire safety and decision making related to social housing. This creates a strong general public interest in routine publication of the type of information you refer to in your letter. I will write to representative organisations of local government and other public authorities to make clear my belief that information should be proactively released where possible.

Following the tragedy at Grenfell Tower, and the evidence that has surfaced about alleged failures by public authorities to ensure appropriate safety measures to protect residents, I acknowledge that arguments in favour of releasing fire safety information are likely to be compelling in many cases. As a result it is likely that the public interest will favour the release of more information, particularly where requests have recently been submitted.

However, as you will also appreciate, there are sometimes good reasons for withholding information in the public interest. As circumstances change, so too can the level of prejudice arising from disclosure of information. I am aware that there may need to be considerations about the impact of disclosing specific information related to ongoing criminal investigations or statutory inquiries, for example.

The public interest test is invariably highly dependent on the specific context of a particular case and I cannot issue immediate guidance that is more specific for fire safety assessments.

I will publish a blog tomorrow highlighting these messages. Specifically I will encourage public authorities holding relevant fire risk assessments and other fire safety information to publish proactively where possible. I will also reiterate that, even if proactive publication is not feasible, it is still important that they review any information carefully where it is requested, bearing in mind the weight that public interest arguments in favour of disclosure are likely to have.

In relation to additional proactive publication requirements, my team have already started to review the ICO's position in light of recent events. Specifically, we are starting to consider whether the publication schemes and associated definition documents for local authorities and joint authorities should be updated to include a requirement to proactively publish first safety records, including fire risk assessments. This is likely to require a brief consultation prior to making any such amendment.

I have also been reflecting on the wider picture and how social housing organisations can be more transparent. For example, Housing Associations are not subject to the Freedom of Information Act because the Act does not designate them as public bodies. It is clear to me that this is a significant gap in the public's right to know.

I will address this issue in my forthcoming report to Parliament about extending the reach of the FOI legislation.

Yours sincerely



Elizabeth Denham
UK Information Commissioner