



**Isle of Man
Government**

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Department of Environment, Food and Agriculture

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Freedom of Information Co-ordinator

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Quoting Ref: IM59645I
Your Ref:

3rd October 2016

Dear 

Request under the Freedom of Information Act 2015 (FoIA) Ref : IM59645I Mount Murray Hotel Fire

Thank you for your request dated 6th September 2016.

You asked:

I would like to request a copy of the Health and Safety investigation report into the fire at Mount Murray Hotel and Country Club in November 2013

Response to your request

Whilst our aim is to provide information whenever possible the FoIA makes provision for public authorities to refuse to release information on the grounds that it is qualified exempt information. In this instance the report is being withheld under Section 31 (*Investigations and legal proceedings*); particularly s31(1).

31 Investigations and legal proceedings

(1) Information held by a public authority is qualified exempt information if it has at any time been held by the public authority for the purposes of —

- (a) an investigation that the public authority has a duty to conduct to ascertain whether —
 - (i) a person should be charged with an offence; or*
 - (ii) a person charged with an offence is guilty of it;**
- (b) an investigation, conducted by the public authority, that in the circumstances may lead to criminal proceedings being instituted; or*
- (c) any criminal proceedings that the public authority has power to conduct.*

As the Department has a duty under the Health & Safety at Work etc. Act 1974, as applied to the Isle of Man, to investigate workplace incidents to determine if an offence has occurred the information in this report falls within the class of information described by the exemption.

In assessing where the Public Interest lies in relation to Section 31(1) of the FoIA and the release of this information the following factors have been considered.

Factors in favour of disclosure are:

- Release of the information is likely to improve transparency and public confidence in the Health & Safety (H&S) regulation of the hotel industry and building trade.

Factors in favour of maintaining the exemption and withholding the information are:

- This investigation resulted in criminal proceedings which are currently ongoing against Roofcraft, a roofing company which was working on the building at the time of the incident.
- Whilst investigations and prosecutions are ongoing, public authorities require a safe space in which to operate and premature disclosure may present problems for the judicial process.
- The outcome of an investigation or proceeding will be at risk.

Based on this request and having balanced the factors in favour of disclosure with the factors in favour of maintaining the exemption we consider that the exemption for *Section 31, Investigations and legal proceedings*, outweighs the public interest in disclosure.

Your right to request a review

If you are unhappy with this response to your Freedom of Information request, you may ask us to carry out an internal review of the response, by completing a complaint form and submitting it electronically or by delivery/post to the sender of this letter at the address above. An electronic version of the relevant complaint form can be found by going to our website at <https://www.gov.im/about-the-government/access-to-government-information/freedom-of-information-complaint/> . If you would like a paper version of the complaint form to be sent to you by post, please contact us and we will be happy to arrange for this. Your review request should explain why you are dissatisfied with this response, and should be made as soon as practicable. We will respond as soon as the review has been concluded.

If you are not satisfied with the result of the review, you then have the right to appeal to the Information Commissioner for a decision on;

- 1 Whether we have responded to your request for information in accordance with Part 2 of the Freedom of Information Act; or
- 2 Whether we are justified in refusing to give you the information requested.

In response to an application for review, the Information Commissioner may, at any time, attempt to resolve a matter by negotiation, conciliation, mediation or another form of alternative dispute resolution and will have regard to any outcome of this in making any subsequent decision.

More detailed information on your rights to review is on the Information Commissioner's website at: <https://www.inforights.im/>

Should you have any queries concerning this letter, please do not hesitate to contact the FOI Co-ordinator.

Further information about Freedom of Information requests can be found:

[https://www.gov.im/about-the-government/access-to-government-information/#Freedom of Information Act 2015](https://www.gov.im/about-the-government/access-to-government-information/#Freedom_of_Information_Act_2015)

Yours sincerely



FOI Co-ordinator,