



HM INSPECTORATE OF PRISONS

3rd floor
10 South Colonnade
Canary Wharf
London E14 4PU

Tel: 020 3334 0353

E-mail: barbara.buchanan@hmiprisons.gov.uk

HM Chief Inspector of Prisons
PETER CLARKE CVO OBE QPM

Date : 11 January 2019

Mark Leech FRSA
Managing Director
Prisons Org UK Ltd
PO Box 679
Bury
BL8 9RU

Ref : B23/2018

By e-mail to : request-536289-14eaff66@whatdotheyknow.com

Dear Mr Leech

Thank you for your e-mail of 1 December where you requested responses to your questions on legal advice; recommendation rejections; and lead body duties. I apologise for the delay in responding due to the Christmas and New Year breaks. The responses to your questions are :

1. On how many occasions has HMCIP taken formal legal advice? (i) From whom was that legal advice sought? (ii) What was/were the individual subject matters on which legal advice was sought?

We can confirm that the Chief Inspector has sought legal advice on a number of occasions, in relation to matters falling within his responsibilities.

The substance of that advice is subject to legal professional privilege, both in terms of litigation and advice privilege, and therefore exempt from disclosure under Section 42(2). There have been no previous disclosures of such information held by the Chief Inspector.

However, Section 42 offers a qualified exemption which means that the decision to disclose or withhold the requested material is subject to a public interest test. When assessing whether or not it was in the public interest to disclose this

information to you, we carefully considered whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

We took account of the fact that disclosure could promote public confidence that the Chief Inspector has access to good quality legal advice, and that it is sought in appropriate circumstances. However, we came to the view that disclosure of the information might influence the quality of future legal advice. There is a strong public interest in safeguarding openness in all communications between client and lawyer. Disclosure could cause legal advisers to become risk adverse in their written advice, out of concern that it may be routinely placed in the public domain through disclosure under the FOIA. It is clearly in the public interest that legal advice to the Chief Inspector remains candid to ensure that a full range of legal options can be explored in each request for advice.

We consider the public interest favours withholding the information you request at this time.

2. On how many occasions has a formal recommendation made to a place of detention inspected by HMIP been rejected the (i) the place of detention; (ii) by HMPPS; (iii) by the Ministry of Justice; (iv) by others with a right of veto.

Action plans for each prison inspection report are published both on our website and on the HMPPS website. Therefore this information is exempt under Section 21 of the FOI Act as the information is reasonably accessible by other means.

3. What are the duties and responsibilities of HM Prisons Inspectorate when acting as the UK's lead body for the National Preventive Mechanism?

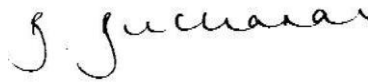
HMI Prisons is a member of the National Preventive Mechanism (NPM). The NPM has its own Secretariat and independent Chair, as explained to you by Anna Edmundson's e-mail of 29 November and Lesley Young's letter of 4 January. The NPM has no 'lead body'.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Mrs Lesley Young, HM Inspectorate of Prisons, 3rd floor, 10 South Colonnade, Canary Wharf, London E14 4PU.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'B. Buchanan'.

BARBARA BUCHANAN