



Disclosure Team
Ministry of Justice
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19 October 2018

Dear Mr Williams

Freedom of Information Act (FOIA) Request - 181001031

Thank you for your request dated 1 October 2018 in which you asked for the following information from the Ministry of Justice (MoJ):

I would like all data relating to how you are going to correct the situation given the judgement in Wakenshaw, R (On the Application Of) v Secretary Of State For Justice [2018] EWHC 2089 (Admin) (07 August 2018) : 32. "I therefore grant permission to the claimant limited to seeking a declaration as follows: "That the period of appointment (three or four years, renewable for three or four years) of Parole Board members coupled with the power of the Secretary of State to remove a member if he is satisfied that he or she has failed without reasonable excuse to discharge the functions of his or her office for a continuous period of at least three months, or is unable to discharge the functions of the office, without recourse to any procedure or machinery to determine the merit of a decision to remove him or her on one or other of these grounds, means that the provisions for tenure of Parole Board membership fail the test of objective independence." 34. I turn to the application for interim relief. Even though I am satisfied that the claimant is arguably entitled to the declaration set out above it by no means follows that I should halt the current competition to select a new Chair of the Board. I have already pointed out that the claimed interim relief appears to go wider than the substantive relief which is sought. If a declaration in the terms set out above is made, then there will need to be further changes made to the terms of appointment of members. I think all that would be needed is to provide for a fully independent and impartial review to examine the merits of a removal. That amendment would have to be made available to all existing as well as future members." I asked the MoJ but they say this is a FOIA request for you alone.

Your request has been handled under the FOIA.

The MoJ does not hold any information in the scope of your request. In making your request, you quote a passage from the judgment handed down by Mr Justice Mostyn on 7 August 2018: [http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/2089.html&query=\(wakenshaw\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/2089.html&query=(wakenshaw))

On 7 August 2018, Mr Justice Mostyn ordered that proceedings in the litigation should be stayed for three months in order to allow the Ministry to consider his judgment. In the context of this ongoing litigation, the Ministry is currently considering - with the Parole Board - how best to address the issues raised in the judgment. Therefore, the information requested does not exist yet.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty is to only provide the recorded information held.

Appeal Rights

If you are not satisfied with this response you have the right to request an internal review by responding in writing to one of the addresses below within two months of the date of this response.

data.access@justice.gov.uk

Disclosure Team, Ministry of Justice, 10.38, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely

Ed Bowie
ALB Centre of Expertise