



# Attorney General's Office

Attorney General's Office  
102 Petty France  
London  
SW1H 9EA

020 7271 2492

[www.gov.uk/ago](http://www.gov.uk/ago)

Ms Kacey Montagu  
[request-769240-50dbb825@whatdotheyknow.com](mailto:request-769240-50dbb825@whatdotheyknow.com)  
By email only

26 November 2021

Dear Ms Montagu,

## **Freedom of Information request: FOI/122/21**

I am writing in response to the Freedom of Information request you submitted to this office and dated 28 June 2021, and further clarified on 30 July 2021, which is copied in bold below:

### **I am requesting the following:**

- 1) Communications between the AGO to Number 10 regarding the appointment of Michael Ellis as Attorney General.**
- 2) Communications between AGO and Michael Ellis upon his appointment as Attorney General - the communications should be on the day of his appointment, and the next day following his appointment.**
- 3) Documents, which are not exempt, given to Michael Ellis upon his appointment, once again on the day of his appointment or the day following.**

In your email dated 30 July you confirmed:

**Thank you for your letter informing me of the extension and requesting clarification.**

**As for the clarification, I am happy for part 1 of my request to be changed to: 'Communications between the AGO to Number 10 regarding the appointment of Michael Ellis as Attorney General, from the day of his appointment and the next day following his appointment.'**

The Freedom of Information Act 2000 (FOIA) gives individuals and organisations the right of access to all types of recorded information held, at the time the request is received, by public authorities such as the Attorney General's Office (AGO).

I have now been able to consider your request and can confirm that the AGO holds material within the scope of your request.

That material includes material which is exempt by virtue of section 35(1)(b) and (c) FOIA (ministerial communications and the Law Officers' convention).

The material includes material which is exempt by virtue of section 21(1) because it is reasonably accessible by other means:

- The Framework Agreement between the CPS and the Law Officers
- The Framework Agreement between the SFO and the Law Officers
- The agenda for a Ministerial Steering Board meeting with the SFO
- A note of the judgment in *R v Simon Finch*

The material also includes a series of briefings. It is the opinion of the Solicitor General that disclosing these briefings would inhibit the free and frank provision of advice, or the free and frank exchange of views for the purposes of deliberation or would otherwise prejudice the effective conduct of public affairs. These briefings are therefore exempt by virtue of s36(2) FOIA.

As you know, some time has been required to apply the public interest test to these documents and I am sorry that it has taken longer than expected. I have considered carefully not only whether the documents exempted by virtue of section 35(1)(b) and (c) fall within those exemptions (and the Solicitor General has considered section 36(2)) but I have also considered the important public interest protected by those exemptions in the light of the documents themselves. Having done so, I have reached the conclusion that in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest in disclosing the information. I consider that the circumstances in which the documents are thought about, prepared and conveyed very clearly and demonstrably relies on the expectation that they would not be subject to disclosure, especially disclosure proximate to the time of their writing. It is of a nature and degree that, while there is a public interest in transparency, I consider that that is outweighed by the public interest in withholding the documents.

I am, however, disclosing to you the following documents within the scope of your request, which are enclosed with this letter at Annexes A – C:

- ANNEX A – A letter sent to Michael Ellis by the Bar Council upon his appointment
- ANNEX B – The cover email of a box which was sent to Michael Ellis on 3 March 2021
- ANNEX C – Included within this, information about cases referred to Complex Casework Units in the CPS

Personal information has been redacted from these documents pursuant to section 40 FOIA, as well as additional material to which section 35 FOIA and/or section 36 FOIA apply and where I have concluded the balance of the public interest favours non-disclosure.

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 request and should be addressed to [correspondence@attorneygeneral.gov.uk](mailto:correspondence@attorneygeneral.gov.uk) or to the above address.

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,

FOI Officer



FOI Officer

E: [correspondence@attorneygeneral.gov.uk](mailto:correspondence@attorneygeneral.gov.uk)

T: 020 7271 2492

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