



Sarah Walsh
Deputy Head of Secretariat
Independent Monitoring Boards Secretariat
Post Point 2
10 South Colonnade
Canary Wharf
London, E14 4PU

Tel: 0203 334 3265
Email: sarah.walsh1@justice.gov.uk

Mr Mark Leech
By email:

14 March 2019

Dear Mr Leech,

Freedom of Information Act (FOIA) Request

Thank you for your request to the Independent Monitoring Board (IMB) at HMP Nottingham in which you asked:

“Can I please have a copy of your Board's monthly minutes for

- 1. November 2018**
- 2. December 2018, and**
- 3. January 2019”**

Your request has been dealt with under the Freedom of Information Act (FOIA)

The IMB at HMP Nottingham confirms it holds the information requested, copies are attached to this letter.

Some redactions have been made to the information as it is exempt from disclosure under the following provisions:

Section 31(1)(f) and Section 31 (1)(a):

The Board are not obliged to provide information if it would prejudice the maintenance of security and good order of prisons (s. 31 (1)(f) of the FOIA) or if it would prejudice the prevention and detection of crime. (s. 31(1)(a) of the FOIA)

Sections 31(1)(f) and 31 (1)(a) are qualified exemptions which means that the decision to disclose the requested material is subject to the public interest test. When assessing whether it is in the public interest to disclose the information to you, the board took into account the following factors:

Public interest considerations favouring disclosure

Disclosure of the exempt information would promote public understanding of how IMB monitoring takes place and provide information on interaction between the Prison Establishment and a scrutiny body.

There is a public interest in providing information that makes clear that scrutiny bodies are provided with detailed operations knowledge of the workings of the establishment. It is in the public interest that there is confidence that Boards are provided with this information to effectively monitor the humane and just treatment of persons detained. Disclosure of information relating to the Boards awareness of operational practices would provide reassurance to the public that robust monitoring of the entire regime is being undertaken. Disclosure of the information would also provide public confidence that HM Prison and Probation Service (HMPPS) have robust measures to prevent criminal activity within the prison.

There is a additional public interest in providing information which would indicate the ongoing status of the 'good order' of the prison given that HMP Nottingham has been subject to the HM Inspectorate of Prisons Urgent Notification Process (UN).

Public interest considerations favouring withholding the information

While the public interest arguments in respect of disclosure are persuasive, effective monitoring of an establishment relies on the mutual trust and safe space for Prison Management and Boards to discuss issues in confidence. As public appointees responsible for monitoring the detention setting, the Board are regularly entrusted with operational information relating to prison security and safety. This allows the IMB to monitor effectively and raise concerns as they arise way through dialogue with the Governor, the prison management and the Minister.

While the work of the IMB is independent of HMPPS, it would not be in the public interest for the Board to disclose information which could undermine the security of the establishment that they are monitoring. It is in the public interest that HMPPS can robustly prevent criminal activity within the prison. Disclosure of information under the FOIA is disclosure to the world at large and placing information into the public domain which would undermine security at the prison could impact on the operational security of not only this prison but other establishments who share similar security arrangements. Disclosure of the withheld information could allow individuals with malicious intent to circumnavigate security protocols or incite unrest among the prison population. This would risk both HMPPS operational practices as well as undermine the future of effective and safe monitoring of those establishments.

Although there is merit in the arguments concerning the trigger of the HM Inspectorate's UN process in respect of HMP Nottingham, it is not in the public interest to disclose information which might have a detrimental impact on the effectiveness of the establishments action plan. The public interest will be met elsewhere by the appropriate authority – in this case HMIP.

It is important to recognise that as a scrutiny body, the IMB make available an annual report of the years monitoring which will address any specific concerns in respect of the maintenance of security and good order of prisons, and it is the Board's view that the public interest is being met elsewhere, in a way which does not undermine the security of the establishment or the prevention of crime.

At this time, the Board considers the public interest favours withholding the information.

Section 31 (1) (c)

The IMB are not obliged to provide information that would prejudice the administration of justice. The circumstances outlined in the minutes are awaiting an inquest and are therefore before the Coroner.

Section 31 (1) (c) is a qualified exemption which means that the decision to disclose the requested material is subject to the public interest test. When assessing whether or not it was in the public interest to disclose the information to you, the board took into account the following factors:

Public interest considerations favouring disclosure

Disclosure of the information held would promote public understanding of how the IMB's monitor prison conditions, and how they record their findings regarding specific themes in their monitoring. Disclosure would provide public confidence that the IMB are monitoring incidents such as death in custody effectively and providing sufficient scrutiny of the detention environment, and that their mandate of ensuring fairness and respect for persons detained is being adhered to. It would also provide insight in respect of how the IMB interact with other bodies such as the Prison and Probation Ombudsman.

Public interest considerations favouring withholding the information

The information concerned relates to a matter that is subject to an inquest which is a judicial process. It is not in the public interest to place information into the public domain that may pre-empt any conclusions or findings that are before the Judiciary.

The public interest in disclosure will be met elsewhere in due course, without the disclosure of the IMB documents, through the public findings of the inquest as well as findings which may form part of the reporting of the Prison and Probation Ombudsman and IMB at Nottingham's own Annual Report once the judicial process has concluded.

On balance, the board consider the public interest favours withholding the information at this time.

Section 40 (2)

Some of the information that you have requested is exempt from disclosure under section 40(2) of the FOIA, because it contains personal data.

Personal data can only be released if to do so would not contravene any of the data protection principles set out in Article 5(1) of the General Data Protection Regulation and section 34(1) of the Data Protection Act 2018.

The board believe releasing the requested information into the public domain would be unlawful. Individuals have a clear and strong expectation that their personal data will be held in confidence and not disclosed to the public under the FOIA.

This is an absolute exemption and does not require a public interest test.

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

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.

You can contact the Information Commissioner's Office at the following address:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire
SK9 5AF

Internet address: https://www.ico.gov.uk/Global/contact_us.aspx

Yours sincerely

SARAH WALSH

Independent Monitoring Boards Secretariat