



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

Alex Hewson  
alex.hewson@prisonreformtrust.org.uk

data.access@justice.gov.uk

17th February 2023

Dear Sir or Madam

**Freedom of Information Act (FOIA) Request – 230130004**

Thank you for your request dated 30<sup>h</sup> January 2023 in which you asked for the following information from the Ministry of Justice (MoJ):

**Further to the data supplied in response to FOI request 221220023 concerning decisions taken by the secretary of state (or his officials) following Parole Board recommendations for transfer to open conditions, I would like to request the following information under the Freedom of Information Act.**

- **Copies of any guidance under which officials acting under authority delegated by the secretary of state were operating in relation to the 123 decisions taken under the policy in place prior to 6 June (109 rejected and 14 accepted).**
- **Copies of any correspondence, email or other communication requiring a change in approach by officials considering the 123 cases in which those decisions were taken by comparison with their previous practice.**

Your request has been handled under the FOIA.

I can confirm that the MoJ holds all of the information you have requested and I have provided some of it below and attached.

In response to your first question, when considering whether to accept or reject a recommendation from the Parole Board for a prisoner to move to open conditions, in the cases you refer to, the Secretary of State (or his officials) will refer to the policy and guidance in place before 6 June 2022. I attach a copy of the Generic Parole Process Policy Framework which contains the policy and guidance. When considering whether to accept Parole Board recommendations for open conditions, each case is considered on its own merits, against the terms of the policy, taking into account all of the information provided.

Turning to the second part of your question, I attach a copy of a note sent internally to Public Protection Casework Section (PPCS) staff responsible for considering open recommendations made by the Parole Board, which explained the change of approach in the context of which cohort prisoners were in. There was no further communication in relation to the consideration of Parole Board recommendations.

Please note, some information within the attached documents has been removed as it constitutes personal data.

Section 40(2) and section 40(3A)(a) of the FOIA taken together mean that personal data can only be released if to do so would not contravene any of the principles set out in Article 5(1) of the General Data Protection Regulation (GDPR) and section 34(1) of the Data Protection Act 2018.

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. Also, although s40 is an absolute exemption, we have considered whether there is a wider public interest in disclosing this personal information, that would override the fundamental rights of those concerned. We have concluded there is no such public interest in this instance.

We believe releasing the requested information into the public domain would be unlawful; the personal information is therefore exempt from disclosure under section 40(2).

This is an absolute exemption and does not require a public interest test under the FOIA

Outside the scope of the FOIA and on a discretionary basis, I can inform you that the change in approach was brought about through the intentions outlined by Government in the publication of the Root and Branch review. The Root and Branch Review report is available on the following link: <http://www.gov.uk/government/publications/root-and-branch-review-of-the-parole-system>.

### **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

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

  
Public Protection Operational Policy & Support (PPOPS)