



# HOLLESLEY PARISH COUNCIL

**Mrs Judi Hallett, Clerk to the Council**

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Friday, 30 August 2019

Elizabeth Denham CBE  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Dear Madam,

**Re: Freedom of Information Act (FOIA) Request – 190415037**

I am writing on behalf of Hollesley Parish Council (HPC) in connection with a Freedom of Information request made to the Ministry of Justice (MoJ). The request relates to a decision, made by the MoJ, to house sex offenders at Hollesley Bay open prison in Suffolk. I have included copies of the original request, the subsequent refusal letter from the MoJ, HPC's request for a review of that decision and the response received.

Having considered the MoJ's 'Outcome of Internal Review' HPC is not satisfied with the response received and it is with regret that we feel we have no option other than to bring this case to you.

HPC's request for the review referred to a letter we had received from the MoJ's Ms Stacey Tasker, dated 22nd January 2019. I have also included a copy of this letter. HPC is of the view that this letter clearly suggests that the decision to house sex offenders at Hollesley Bay is one that has, long since, been made. Ms Tasker stated that, "*...we are confident that we will be proceeding at Hollesley Bay with this cohort change and Jeff [the erstwhile governor] and his team are currently working on detailed implementation plans.*" Based on what Ms Tasker had written, HPC did not conclude that there was any suggestion, at that time, that the MoJ were still at the early stages of the decision making process or that there was any possibility that the decision would not be implemented.

HPC's request for a review was made having first considered the Information Commissioner's Office (ICO) guidance and reference was made by us to parts of your guidance, which appeared relevant to this case. As such, I will avoid duplication of what has already been written and ask that you refer to our letters to the MoJ, specifically our request for the review.

Turning to the 'Outcome of Internal Review' written by Ms Rozario, the first point I would make is that is dated "May 2019". HPC's request for a review was actually dated Thursday 23<sup>rd</sup> May 2019 and Ms Rozario's letter was not received until 21<sup>st</sup> June 2019. As such, we cannot say with any certainty when it was actually written.

Ms Rozario reproduces HPC's request for information relating to, "*the decision to house sex offenders*" at Hollesley Bay (paragraph 4 – in bold). I have highlighted this, as on page 2 of her letter she states in the first paragraph that, "*the decision to accommodate men convicted of sexual offences at Hollesley Bay has actually been made.*" She goes on to say that, "*further plans are being developed to implement that decision*". She then says, "*You are requesting the information relating to that decision-making process.*" So that there can be no misunderstanding I should clarify that HPC's request relates specifically to the original decision to house sex offenders at Hollesley Bay and not to any subsequent "*further plans*" regarding implementation that the MoJ may be working on.

I would draw your attention to paragraph 6 of page 1 of Ms Rozario's letter. She states that our request was refused as it relates to "*development*" of government policy, but when she goes on to explain her own decision (page 2, paragraph 2) she makes no mention of "*development*" and instead refers to "*formulation*". This echoes what was written by Mr Bateman in his initial refusal letter. As this apparent lack of consistency has already been addressed in our review request I will not duplicate our observations again here.

In paragraph 6 of page 1 of Ms Rozario's letter she acknowledges that the exemption relied upon is subject to the Public Interest Test (PIT). There is, however, no associated re-consideration of the PIT in her letter and no attempt to counter the observations we made regarding Mr Bateman's earlier application of the test. We believe that this point alone is sufficient justification to bring this case to you. We do not believe the review can be deemed adequate without examination of the PIT even if the ICO concludes that the MoJ's reliance on this the exemption is valid.

The final paragraph of page 1 of her letter relates to "*statutory deadlines*" but this was not something HPC actually challenged when we requested the review.

Moving on to the second page of Ms Rozario's letter, and considering paragraph 2, we have already highlighted the fact that she only refers to "*formulation*". She suggests that, "*disclosure of the decision-making process could impact the successful implementation of that decision*" but offers no explanation as to why this "*could*" affect the implementation.

This paragraph might best be summarised by her assertion in the last sentence that, "*implementation and formulation of policy are inextricably linked in this instance*". Again she offers no further explanation as to why this is the case in this instance. This appears to contradict the ICO's guidance, which states, "*If implementation issues are actively considered as part of the policy design (i.e. before a policy decision is finalised) and feed into that process, they will also relate to the formulation of the policy*". I have highlighted the part in brackets as all the evidence points towards the fact that a decision to house sex offenders at Hollesley Bay has, in fact, been finalised and there has been no suggestion by the MoJ that the decision might be reversed.

HPC does not accept Ms Rozario's additional justification to withhold the information requested (paragraph 3 of page 2). There might, just possibly, be some way that disclosing the information could have some bearing on a small number of similar MoJ decisions. We can, however, see no possible justification for the suggestion that the integrity of decision-making "*across government*" could be affected if they were to release the documents requested. If such a suggestion had any validity then clearly no government decision, on any matter, would ever be made subject to scrutiny.

In conclusion then, HPC has not been convinced by what Ms Rozario has written, that the Section 35(1) exemption still applies to the decision to house sex offenders at Hollesley Bay. She has not dealt with any of the points we actually raised in our request for a review, which made reference to the ICO's guidance. Her letter ignores the Public Interest Test relevant to this case.

Much of her letter appears, to us, to be irrelevant. The second paragraph of page 2 is the only part that actually offers any explanation as to why the exemption applies and this is not written in a way that persuades us that her assertions have any validity. What she has written (about formulation) apparently contradicts the stated reason for withholding the information i.e. that it relates to "*development*" of government policy.

We would therefore ask that you consider our case and take it forward if you feel that it would be appropriate to do so. Please do not hesitate to contact me should you need further information from us.

Kind regards,

*Judi Hallett*

Judi Hallett (Clerk to Hollesley Parish Council)