



Appeal number: EA/2021/0054P

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

CHRISTOPHER HASTINGS

Appellant

- and -

THE INFORMATION COMMISSIONER

**First
Respondent**

- and -

MINISTRY OF JUSTICE

**Second
Respondent**

**TRIBUNAL PANEL: JUDGE ALEXANDRA MARKS CBE
TRIBUNAL MEMBER SUSAN WOLF
TRIBUNAL MEMBER EMMA YATES**

- I. Pursuant to Rule 32(1) of the First-tier Tribunal (General Regulatory Chamber) Rules and by consent of the parties, this matter was determined on the papers because the Tribunal is satisfied it can properly determine the issues without a hearing.
- II. The papers which the Panel considered are set out in paragraph 27 of this Decision.
- III. The outcome of the appeal is stated at both the start and the end of this Decision.

Mr Hastings was unrepresented

The Information Commissioner was represented by Richard Bailey, Solicitor

The Ministry of Justice was represented by Tom Rainsbury, Barrister

DECISION

The appeal is dismissed.

REASONS

Background to Appeal

1. The Appellant, Mr Hastings made a request on 29 January 2020 to the Ministry of Justice (the 'MoJ') for information - pursuant to the Freedom of Information Act 2000 ('FOIA') and the Environmental Information Regulations 2004 ('EIR') - about communications for the period 23 January 2019 until the date of the request (almost exactly a year later) between the Prince of Wales/Duke of Cornwall and either the Chief Executive of HM Prisons & Probation Service (HMPPS) or the Director-General of Prisons about Dartmoor Prison.
2. The full text of the request is set out in Appendix 1 to this decision but in essence it asked for copies of '*...correspondence and communications [which] will include information including but not limited to matters relating to the staffing, management, funding and redevelopment of the prison as well as matters relating to the running of the prison and the future use of the prison. It will also include but not be limited to matters relating to the age of the facility and the conditions for prisoners inside the facility ...*'
3. Dartmoor Prison is operated by HMPPS, an executive agency sponsored by the MoJ. The MoJ responded to Mr Hastings' request on 21 February 2020, refusing to confirm or deny that it held the requested information.
4. On 27 February 2020, Mr Hastings asked the MoJ to carry out an internal review of its decision. He also stated that the communications of the Prince of Wales/Duke of Cornwall are not exempt from disclosure under the EIR if they relate to the environment or to matters which have implications for the environment as defined by the EIR. The text of Mr Hastings' request for an internal review is set out in Appendix 2 to this decision.
5. The MoJ wrote to Mr Hastings on 20 March 2020 maintaining its original position with respect to FOIA, and concluding that any information within the scope of the request would not constitute environmental information.
6. Mr Hastings contacted the Information Commissioner ('the Commissioner') on 22 March 2020. He complained about the way the MoJ had handled his request for information under both FOIA and EIR.
7. On 16 February 2021, the Commissioner issued Decision Notice IC-66214-T0Z8 which set out the Commissioner's conclusion that the MoJ was entitled to neither confirm nor deny whether it held such information under FOIA and EIR.

8. Mr Hastings was dissatisfied with the Commissioner's decision, and on 19 February 2021, the Tribunal received Mr Hastings' Notice of Appeal.

Appeal to the Tribunal

9. Mr Hastings' grounds of appeal are summarised in paragraph 28 below.

10. The Commissioner's Response dated 22 March 2021 are summarised in paragraph 29 below, maintaining the analysis set out in the Decision Notice.

11. The MoJ's Response dated 11 May 2021 makes further observations summarised in paragraph 30 below, and invites the Tribunal to conclude that the Decision Notice was in accordance with the law, and to dismiss the appeal.

The Law

Section 1(1) FOIA: general right of access to information held by public authorities

12. Public authorities' duty to disclose information is set out in s.1(1) FOIA:

'1 (1) Any person making a request to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if this is the case, to have that information communicated to him.'

Regulation 5 EIR: access to environmental information held by public authorities

13. Regulation 5 EIR sets out a specific duty by public authorities to make environmental information available on request.

Regulation 12 EIR: exceptions to the duty to disclose environmental information

14. Regulation 12(2) provides that:

'A public authority shall apply a presumption in favour of disclosure.'

15. Regulation 12(3) provides that:

'To the extent that the information requested includes personal data of which the applicant [i.e. the requester] is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.'

Regulation 2 EIR: definition of 'environmental information'

16. 'Environmental information' is defined by Regulation 2(1) EIR as any information on:

'(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used with the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c)'

Section 37 FOIA: communications with Her Majesty etc.

17. Section 37 FOIA provides that:

'(1) Information is exempt information if it relates to –

(aa) communications with the heir to, or the person who is for the time being second in line of succession to, the Throne.

...

(2) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).'

18. Section 37(2) is an absolute exemption and not therefore subject to the public interest test.

Regulation 13 EIR: personal data

19. Regulation 13 EIR provides that:

‘(1) To the extent that the information requested includes the personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if—

(a) the first condition is satisfied...

...

(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations —

(a) would contravene any of the data protection principles...

...

(5A) For the purposes of this regulation a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information to the extent that —

(a) the condition in paragraph (5B)(a) is satisfied...

...

(5B) The conditions mentioned in paragraph (5A) are —

(a) giving a member of the public the confirmation or denial —

(i) would (apart from these Regulations) contravene any of the data protection principles...

...

‘Data protection principles’

20. Section 3(2) DPA provides that ‘personal data’ means any information relating to an identified or identifiable living individual.

21. Regulation 2(1) defines ‘the data protection principles’ as those set out in Article 5(1) of the General Data Protection Regulation 2016/679 (GDPR), s.34(1) of the Data Protection Act 2018 (DPA) and s. 85(1) of the DPA.

22. Section 34(1) DPA sets out six data protection principles, those most relevant for the present case being the first as set out in s.35(1) that *‘processing be lawful and fair’*; and the second as set out in s. 36(1) that *‘the purposes of processing be specified, explicit and legitimate.’* These principles are again listed in s.85(1) DPA with sections 86 and 87 making provision to supplement the principle to which it relates.

23. Article 5(1)(a) GDPR provides that personal data shall be *‘processed lawfully, fairly and in a transparent manner in relation to the data subject’*.

24. Article 6(1) GDPR provides that *‘Processing shall be lawful only if and to the extent that... (f) processing is necessary for the purposes of the legitimate interests*

pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data...'

The powers of the Tribunal

25. The powers of the Tribunal in determining appeals against the Commissioner's decisions are set out in FOIA, as follows:

's.57 Appeal against notices...

(a) Where a decision notice has been served, the complainant or the public authority may appeal to the Tribunal against the notice...

s.58 Determination of appeals

(1) If on an appeal under section 57 the Tribunal considers -

(a) that the notice against which the appeal is brought is not in accordance with the law, or

(b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.

(2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.'

The burden of proof

26. The burden of proof rests with Mr Hastings in satisfying the Tribunal that the Commissioner's decision was wrong in law or involved an inappropriate exercise of discretion.

Evidence

27. Before the hearing, all parties had submitted written material. This was contained in an Open Bundle of 98 pages (including an Index). The Panel was also supplied with a Closed Bundle of 10 pages which was not disclosed to Mr Hastings or the public. The Panel noted the contents of both bundles.

Submissions

Mr Hastings' submissions in his Appeal Notice received 19 February 2021

28. In summary, Mr Hastings' appeal is on the basis that:

- (a) The information he was seeking was likely to be 'environmental' information and should therefore have been released under EIR.
- (b) The Decision Notice contradicts findings of previous Decision Notices and Tribunal rulings relating to the Prince of Wales. For example, the Upper Tribunal case of *Evans v Commissioner [2012] UKUT 313 (AAC)* states that advocacy correspondence of the Prince of Wales, particularly relating to the environment, should be disclosed even when there are implications for his privacy rights, and even when such correspondence is recent and controversial. A further example is the Commissioner's Decision Notice FER0587279 issued on 9 November 2016 in response to Mr Hastings' own complaint about the Cabinet Office; and Decision Notice FER0567018 issued on 20 October 2015 in response to his complaint about the Department of Transport.
- (c) If upheld, the Decision Notice in this case will reinforce the misapprehension that there is a blanket ban on public bodies disclosing the correspondence and communications of the Prince of Wales.
- (d) The Decision Notice's statements about the Prince of Wales' expectations of confidentiality, especially as the requested information is recent, reinforce the idea of a blanket ban.
- (e) There is nothing in the EIR to exempt communications of the Prince of Wales/Duke of Cornwall from disclosure.
- (f) The Commissioner has previously ruled that 'recent' information can be revealed.

Submissions on behalf of the Commissioner dated 22 March 2021

29. In summary, the Commissioner's response is that:

- (a) There is no dispute between the parties that, to the extent that the requested information, if held, has the potential to constitute environmental information, such information would also constitute the personal data of the Prince of Wales.
- (b) There is also no dispute that there is a legitimate interest in the requested information, and that confirmation or denial that the information is held would be reasonably necessary to meet that legitimate interest.
- (c) The area in dispute is whether, on the facts of this case, the privacy rights of the Prince of Wales outweigh the legitimate interest in the MoJ confirming or denying whether the requested information is held.

- (d) Mr Hastings refers to the Upper Tribunal decision in *Evans* but the conclusion in that case made clear – at paragraph 4 – that the decision was based on ‘*the circumstances of the present case*’. Also, in paragraph 7, the Upper Tribunal set out the meaning of ‘*advocacy correspondence*’: in the *Evans* case, it was public knowledge that the Prince of Wales had strong views on particular public policy issues and communicated with Ministers about those (paragraph 22).
- (e) In the present case, the Commissioner is not aware of anything in the public domain about the Prince of Wales taking an interest in, or advocating anything in relation to, Dartmoor Prison – nor raising with Ministers anything about Dartmoor Prison.
- (f) The request in this case is neither about correspondence with Ministers, nor does it relate to ‘*advocacy correspondence*’.
- (g) The two decision notices Mr Hastings refers to as ‘contradictory’ to the Decision Notice in the present case relate to very different circumstances but, in any event, earlier decision notices by the Commissioner are not binding on the Tribunal which must consider each case on its facts.
- (h) The Commissioner maintains that she was correct to conclude that Regulation 13(5)(A)(a) EIR is engaged.

MoJ’s submissions dated 11 May 2021

30. In summary, MoJ argues that:

- (a) Mr Hastings does not dispute that the requested information falls plainly within the absolute exemption in s. 37(1)(aa) FOIA.
- (b) On the question whether the request nevertheless gave rise to a duty to confirm or deny under EIR whether the information is held:
- (i) As remarked by Judge Wikeley in *DfECC v Commissioner [2015] UKUT 67*, at paragraphs 36 and 37, while the expression ‘environmental information’ ‘...*must be read in a broad and inclusive manner, one must still guard against an impermissibly and overly expansive reading that sweeps in information which on no reasonable construction can be said to fall with the terms of the statutory definition*’.
- (ii) The information requested is not ‘environmental information’: the original request did not include (as was suggested in the grounds of appeal) ‘...*any information relating to prison build, prison expansion, prison demolition, prison energy supplies ...*’

- (iii) The information actually requested is not ‘environmental information’ because that would be construing the term too widely, which would mean the statutory exemption from the duty to confirm or deny in s.37(1)(aa) FIOA could be side-stepped in every case (since all general requests for ‘communications’ might possibly include matters relating to environmental information); and
 - (iv) In any event, the exemption in Regulation 13(5A) applies because the information requested involves personal data.
- (c) It is wrong to suggest there is nothing in EIR to exempt communications with the Prince of Wales: there are numerous exceptions to the requirement to disclose environmental information.
 - (d) It is wrong to suggest that upholding the Decision Notice in this case will reinforce the misapprehension that there is a ‘blanket ban’ on public bodies disclosing communications with the heir to the Throne. If the requested information includes personal data of which the applicant is not the subject, the public authority must consider the detailed framework in Regulation 13.
 - (e) There is a long-standing principle that communications between senior members of the Royal Family and public authorities are confidential and private. This is reflected in s.37(1)(aa) FOIA.
 - (f) The requested information did not involve communications with government.
 - (g) The requested information was not for ‘*advocacy correspondence*’.

Discussion

31. In considering the evidence and submissions before it, the Panel asked itself the following questions:

- (a) Does the request for information comprise (or at least include) a request for ‘environmental information’?
- (b) Does the requested information comprise (or at least include) a third party’s personal data?
- (c) If yes to (a) and (b), is Regulation 13(5A) EIR engaged?
- (d) If yes, to (c), would disclosure of personal data breach GDPR principles?

32. Taking each of these questions in turn:

Does the request for information comprise (or at least include) a request for ‘environmental information’?

33. The Panel has carefully considered whether the information sought by Mr Hastings satisfies the definition of ‘*environmental information*’ as defined in Regulation 2(1) EIR.

34. In his email to the Commissioner dated 28 September 2010, Mr Hastings suggested that ‘...*information relevant to this request is likely to have implications for the state of human health and safety and the conditions of human life...[and] that issues relating to things like prison expansion can have implications for the environment...*’.

35. The Panel noted that Mr Hastings’ information request was about ‘...*the staffing, management, funding, and redevelopment of the prison...as well as ...the running of the prison and the future use of the prison*’ and ‘...*matters relating to the age of the facility and the conditions for prisoners inside the facility...*’. Mr Hastings has not explained why this information is about the state of the elements of the environment or about factors that affect or likely to affect the environment. Nor has he explained why this information is about measures and activities that affect or are likely to affect either the elements or the factors.

36. We note that the Commissioner’s Decision Notice states that ‘...*the requested information, if held, has the potential to constitute environmental information...*’ while the MOJ submits that ‘...*the information requested is not ‘environmental information’ because that would be construing the term too widely...*’

37. The Panel has borne in the mind the Upper Tribunal’s decision in *DfECC* (cited in paragraph 30(b)(i) above), which is binding on this Tribunal, that the definition of environmental information should not be read too expansively.

38. The Panel is also doubtful that inclusion of a ‘trigger’ word such as ‘redevelopment’ in a request for information on otherwise non-environmental matters would of itself be sufficient to bring the requested information within the EIR regime rather than the more restrictive FOIA regime.

39. The Panel recognises the conundrum of considering this issue in the context of a ‘neither confirm nor deny’ response which is designed not to give away the nature of any information, if held. The consequence is that assessment of the correct regime (given that FOIA and EIR are mutually exclusive) will to some extent depend on the framing of the request rather than the information itself.

40. Overall, the Panel is unpersuaded that the request in the present case – noting that Mr Hastings’ request principally concerns operational matters such as staffing, management and the running of the prison – falls to be considered under the EIR regime rather than the FOIA framework.

41. However, in case we are wrong about that, we have gone on to consider whether, if the EIR regime does apply in the present case, the Decision Notice contains any errors of law, or whether the Commissioner should have exercised her discretion differently, when applying the EIR regime.

42. In upholding the MoJ's 'neither confirm nor deny' response, the Decision Notice applied the EIR exemption relating to information about personal data of someone other than the requester.

Does the requested information comprise (or at least include) a third party's personal data?

43. The Commissioner stated [in para. 43 of the Decision Notice] that '*information will relate to a person if it is about them, is linked to them, has biological significance for them, is used to inform decisions affecting them or has them as its main focus.*'

44. In correspondence with the Commissioner, the MoJ said, '*to reveal whether information is held would reveal The Prince of Wales' personal data given it would reveal whether he had entered into with, or received correspondence from, HMPPS senior officials.*'

45. Taking this into account, the Commissioner said in her Decision Notice [at paragraph 45] that she was satisfied that confirming in response to Mr Hastings' request whether or not environmental information is held would reveal something of consequence about the Prince of Wales.

46. Mr Hastings has not challenged the Commissioner's conclusion in this regard. We have no difficulty in concluding that it was correct in law for the Decision Notice to state that responding to the request would disclose personal data.

Is Regulation 13(5A) EIR engaged?

47. As set out in paragraph 19 above, Regulation 13(5) contains a 'neither confirm nor deny' provision when responding to information requests relating to personal data.

48. In considering whether Regulation 13(5) is engaged in this case, the Panel takes account of the Commissioner's guidance on '*Neither confirm nor deny in relation to personal data*'. The overview to that guidance states:

- *EIR provide exemptions from the duty to confirm or deny whether requested information is held if to do so would disclose personal data.*
- *This exemption is not about the content of the requested information, but concerns the disclosure of personal data by confirming or denying whether or not the requested information is held.*
- *...*
- *You are not obliged to confirm or deny if you hold another person's personal data if:*
 - *it would breach the UK GDPR data protection principles;*

- *it would contravene an objection to processing; or*
- *the information would be exempt from a subject access request.*
- *In circumstances where confirmation or denial would breach the principles, there is no public interest test.'*

49. It is not suggested in this case that disclosing personal data would contravene an objection to processing, or that the information would be exempt from a subject access request. However, the Decision Notice states that such disclosure would breach the UK GDPR data protection principles.

Would disclosure of personal data breach GDPR principles?

50. When considering this issue, the Panel paid particular attention to the Decision Notice's approach to Article 6(1)(f) GDPR (set out in paragraph 16 above) since that was the basis on which the Commissioner made her decision.

51. In the Decision Notice, the Commissioner considered the application of Article 6(1)(f) GDPR in the context of a request for information under EIR under a three part test:

- (a) **Legitimate interest test:** whether a legitimate interest is being pursued in the request for information;
- (b) **Necessity test:** whether confirmation as to whether the requested information is held (or not) is necessary to meet the legitimate interest in question; and
- (c) **Balancing test:** whether the above interests override the legitimate interests or fundamental rights and freedoms of the data subject.

52. The Commissioner concluded that the first two tests were satisfied but when applying the 'balancing test' found that '*...the interests and rights of the Prince of Wales override the legitimate interests in confirming or denying whether information is held...*' (paragraph 65 of the Decision Notice.)

53. The Commissioner's reasoning was that:

- (a) It is a long standing principle that communications between the heir to the Throne and public authorities are confidential and private. This includes correspondence in his role as Duchy of Cornwall with senior officials at HMPPS (paragraph 61 of the Decision Notice).
- (b) Accordingly, the Commissioner accepted the MoJ's submission that the Prince of Wales would have a very clear and reasonable expectation that details of any such correspondence would not be disclosed (paragraph 62).
- (c) As the information requested relates to the 12 month period prior to the date of the request, the newness of any such correspondence would

add to the expectation that no details would be disclosed by way of confirmation or denial (paragraph 63).

(d) The Commissioner accepts that there is a legitimate interest in allowing the public to know of correspondence involving the Prince of Wales and senior HMPPS officials, particularly given the subject matter of the request in this case (paragraph 64).

(e) Despite the legitimate interest in allowing the public to know of correspondence involving the Prince of Wales and senior HMPPS officials, the rights and interests of the Prince of Wales overrides this given the expectation of confidentiality on his part of the Prince of Wales; the fact that the information sought is very recent; and the consequences of disclosure (paragraph 65).

54. In considering whether the Commissioner made an error of law or applied her discretion inappropriately, the Panel takes account of the explicit presumption in EIR in favour of disclosure of environmental information – and the legitimate interest this creates in favour of a third party requesting such information. We note too the objectives of the EIR, and that there is a public interest in disclosing the environmental activities of public authorities.

55. However, the Panel acknowledges and agrees with the Commissioner’s view that an individual’s privacy of their personal data is protected by data protection principles.

56. The Panel also notes the arguments raised by the MoJ, which the Commissioner accepted, that even to confirm or deny whether the information was held would reveal personal information about the Prince of Wales as the data subject.

57. Mr Hastings appears not to dispute that confirming or denying that the information requested was held would involve disclosing personal data about the Prince of Wales. His objection is that a ‘neither confirm nor deny’ response effectively creates a ‘blanket ban’ in disclosing the Prince of Wales’ correspondence. Moreover, he argues that there is no explicit exemption or exception provided by the EIR (unlike FOIA) which protects communications with the heir to the Throne, nor is a ‘neither confirm nor deny response’ consistent with *Evans*, disclosures by other public authorities, or previous decisions of the Commissioner herself in other cases.

58. On the basis of the evidence and submissions before us, we do not accept Mr Hastings’ argument that the Commissioner’s approach amounts to - or could even properly reinforce the ‘misapprehension’ that there is - a ‘blanket ban’ on disclosure of correspondence with the Prince of Wales, even in the context of environmental information for which there is an explicit presumption in favour of disclosure.

59. Our reasoning is that it is clear from the Decision Notice that, far from applying a ‘blanket ban’ to disclosure of correspondence by the Prince of Wales under EIR, in this case the Commissioner carefully analysed and applied the correct legal tests in the context of this particular request, and then took account of various facts and features of the present case to balance the legitimate interests in disclosure of

information pursuant to EIR, and protecting an individual's personal data under the relevant exemption in EIR.

60. Moreover, it is clear from cases such as *Evans* and the Decision Notices from which Mr Hastings quotes that in certain circumstances the Prince of Wales' correspondence *can* be disclosed in response to requests for environmental information, for example if it comprises correspondence with Ministers, or other 'advocacy' correspondence. The way in which the request is framed in this case means that no such features exist here.

61. Overall, we consider that Mr Hastings has not fully appreciated the significance of the specific facts and features of each particular case in influencing the way in which the Commissioner properly can and does apply her jurisdiction, and exercises her discretion when weighing up the relevant factors in reaching her decisions. In this case, the Commissioner had to decide whether Regulation 13(5A) applies and, if so, whether the legitimate interests in confirming or denying whether the requested information is held are - or are not - overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.

62. Overall, Mr Hastings has not satisfied the Panel that in the present case the Commissioner's decision was wrong in law or involved an inappropriate exercise of discretion in deciding that it would breach data protection principles were the MoJ either to confirm or deny that the information requested was held. On the contrary, the Panel is satisfied that the Commissioner was entitled to decide that Regulation 13(5A applies) and that, balancing the factors applicable under data protection principles, the MoJ was permitted to respond to the request by neither confirming or denying that the information was held.

Conclusion

63. For the above reasons, we uphold the Commissioner's Decision Notice and dismiss the appeal.

(Signed)

ALEXANDRA MARKS CBE

DATE: 15 October 2021

Promulgation Date: 21 October 2021

Appendix 1

Original request for information sent via email by Mr Hastings on 29 January 2020 to MoJ (data.access@justice.gov.uk)

Dear FOI Team

I would like to request the following information under the Freedom of Information Act and Environmental Information Regulations and I would be grateful if you could forward onto the most appropriate person.

I understand that my request will take 20 working days to process but I would be grateful if you could acknowledge receipt via [my email address].

Please note that I am only interested in information generated between 23 January 2019 and the present day.

Please note that the reference to written correspondence and communications in all the questions below should include traditional forms of correspondence such as letters and faxed, all emails irrespective of whether they were sent through private or official accounts and any messages sent through encrypted messaging services.

Please note that the reference to the Prince of Wales in the questions below should include the Prince himself, his Principal Private Secretary(ies) and any member of staff in his private office able to write and received correspondence and communications on his behalf.

Please note that the reference to the Duke of Cornwall in the questions below should include the Duke himself, his principal private secretary(ies) and any member of staff in his private office able to write and received correspondence and communications on his behalf.

Please note that the reference to the Chief Executive and Director General in the questions below should include anyone who occupies or has occupied those positions during the relevant period. It should also include staff in their private offices who are able to write and received correspondence and communications on their behalf.

1. During the aforementioned period did the Prince of Wales write to or communicate in writing with either the Chief Executive of the HM Prison and Probation Service or the Director General of Prisons about Dartmoor Prison.

This correspondence and communications will include but not be limited to matters relating to the staffing, management, funding and redevelopment of the prison as well as matters relating to the running of the prison and the future use of the prison. It will also include but not be limited to matters relating to the age of the facility and the conditions for prisoners inside the facility.

2. If the answer to question one is yes can you please provide copies of this correspondence and communication including any emails.
3. During the aforementioned period did either the Chief Executive of the HM Prison and Probation Service and or the Director General of Prisons write to the Prince of Wales about Dartmoor Prison. This correspondence and communication will include but not be limited to matters relating to the staffing, management, funding and redevelopment of the prison as well as matters relating to the running of the prison and its future use. It will also include but not be limited to matters relating to the age of the facility and the conditions for prisoners inside the facility.
4. If the answer to question three is yes can you please provide copies of this correspondence and communication including any emails.
5. During the aforementioned period did the Duke of Cornwall write to the (sic) either the Chief Executive of the HM Prison and Probation Service and or the Director General of Prisons about Dartmoor Prison. This correspondence and communication will include but not be limited to matters relating to the staffing, management, funding and redevelopment of the prison as well as matters relating to the running of the prison and its future use. It will also include but not be limited to matters relating to the age of the facility and the conditions for prisoners inside the facility.
6. If the answer to question five is yes can you please provide copies of this correspondence and communications.
7. During the aforementioned period did the Chief Executive of HM Prison and Probation Service and or the Director General of Prisons write to the Duke of Cornwall about Dartmoor Prison. This correspondence and communication will include but not be limited to matters relating to the staffing, management, funding and redevelopment of the prison as well as matters relating to the running of the prison and its future use. It will also include but not be limited to matters relating to the age of the facility and the conditions for prisoners inside the facility.
8. If the answer to question seven is yes can you please provide copies of this correspondence and communication.
9. If information relevant to the request has been destroyed can you please provide the following information:
 - a. What documentation was destroyed? When was it destroyed and why?
 - b. In the case of written correspondence and communications which have been destroyed can you please provide details of the author, recipients and the dates generated/sent. In the case of each destroyed piece of correspondence and communications can you please provide a brief outline of its contents.
 - c. In the case of all destroyed documentation which continues to be held in another form can you please provide copies of that destroyed documentation?

Thank you for dealing with my request.

All good wishes

Appendix 2

Request for internal review of response to original request for information sent via email on 27 February 2020 by Mr Hastings to MoJ (data.access@justice.gov.uk)

Dear FOI Team

Thank you for your reply to my request for information – Your reference 200129020.

I would now like to request an internal review into the handling of the request and I would be grateful if you could pass on this request for a review onto the most appropriate person within the organisation.

I would be grateful if the reviewer could look at the request again in its entirety and also take on board the following points.

1. The communications of the Prince of Wales are not exempt from disclosure under the Environmental Information Regulations if they relate to the environment or to matters which have implications for the environment as defined by the EIRS.
2. The communications of the Duke of Cornwall are not exempt from either the Freedom of Information Act or the Environmental Information Regulations.

Thank you for dealing with my request and I look forward to hearing from you within twenty working days.

All good wishes