



Mr. Thomas Kerins

Our Ref: DOJ-FOI-2022-0143

Dear Mr. Kerins,

I refer to your Freedom of Information request seeking:

- Any internal briefings for the Minister, and minutes of meetings attended by the Minister, or Department officials regarding Review of Spent Convictions & Certain Disclosures Act since 2019*
- List of meetings including date and attendees attended by the Minister, or Department officials regarding Review of Spent Convictions & Certain Disclosures Act since 2019*
- Minutes of meetings attended by the Minister, or Department officials regarding Review of Spent Convictions & Certain Disclosures Act since 2019*
- Submissions from the public as part of the Public Consultation on Spent Convictions since 2019*
- Any records, documents, results, or information derived by processing submissions from the public as part of the Public Consultation on Spent Convictions & Certain Disclosures Act since 2019*

Your request spanned 3 areas within the Department (1) Penal and Policing Policy Function (2) Criminal Legislation and (3) Transparency – Criminal Justice and Contents.

1 Decision – Penal and Policing Policy Function

A decision has been made on your request by Oonagh Ffrench, Higher Executive Officer in the Penal and Policing Policy Function, who has decided to part grant your request in accordance with the following exemptions: section 29, section 30 and section 37.

Deliberations of FOI bodies

Section 29. (1) A head may refuse to grant an FOI request -



(a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and

(b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

and, without prejudice to the generality of paragraph (b), the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.

Public Interest Test

For release

- Openness and transparency
- Accountability of public bodies
- Information will contribute to public debate on the matter
- Records will demonstrate the thinking behind the decision

Against release

- Release of the records will prejudice a decision yet to be made by the Department in respect of the matter
- Release of the record will place the Department at a disadvantage in the current process which has yet to conclude

On balance, the Decision Maker believes that the public interest against release outweighs the public interest for release.

Functions and negotiations of FOI bodies

Section 30. *(1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to*

(c) disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body.

(2) Subsection (1) shall not apply in relation to a case in which in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.



Public Interest Test

For release

- Openness and transparency
- Accountability of public bodies
- Information will contribute to public debate on the matter
- Records will demonstrate the thinking behind the decision

Against release

- Release of the record will place the Department at a disadvantage in the current process which has yet to conclude

On balance, the Decision Maker believes that the public interest against release outweighs the public interest for release.

The review of Spent Convictions is still currently being undertaken. Release of material relating to same including submissions received may pre-empt the decision by the Minister for Justice which is impending.

Personal Information

In arriving at their decision, the decision maker took account of the definition of personal information in Section 2 of the FOI Act

“personal information” means information about an identifiable individual that, either—

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by that body as confidential,

Section 37 - (1) *Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

The decision maker also notes that they do not have the consent of the individuals concerned to release the record to you. Release of personal records to third parties is provided for at Section 37(2)(b).

Section 37(2) - Subsection (1) does not apply if:

(b) any individual to whom the information relates consents, in writing or such other form as may be determined, to its disclosure to the requester,



The decision maker also considered the public interest test:

Public Interest Test

For release

- Openness and transparency
- Accountability of public bodies

Against release

- The right of individuals to privacy in their communications with Government Departments
- The information contained in the record would only be known to those referenced in the record and to release the record would identify them,

On balance, the Decision Maker believes that the public interest against release outweighs the public interest for release.

2. Decision – Criminal Legislation

A decision has been made on your request by Barry Fulham, Assistant Principal Officer in Criminal Legislation who has decided to refuse your request in accordance with section 29 of the Freedom of Information Act 2014.

Deliberations of FOI bodies

Section 29. (1) *A head may refuse to grant an FOI request -*

(a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and

(b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

and, without prejudice to the generality of paragraph (b), the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.

Public Interest Test

For release

- Openness and transparency
- Accountability of public bodies



- Information will contribute to public debate on the matter
- Records will demonstrate the thinking behind the decision

Against release

- Release of the records will prejudice a decision yet to be made by the Department in respect of the matter
- Release of the record will place the Department at a disadvantage in the current process which has yet to conclude

The review of Spent Convictions is still currently being undertaken in the Department of Justice and the release of material relating to same including submissions or correspondence sent or received may pre-empt the deliberative process underway and not yet completed.

On balance, the Decision Maker believes that the public interest against release outweighs the public interest for release.

3. Decision – Transparency – Criminal Justice Contents & Events

A decision has been made on your request by Gráinne Jones, Administrative Officer, Criminal Justice Contents & Events who has decided to refuse your request in accordance section 29 of the Freedom of Information Act 2014.

Deliberations of FOI bodies

Section 29. (1) *A head may refuse to grant an FOI request -*

(a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and

(b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

and, without prejudice to the generality of paragraph (b), the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.

Public Interest Test

For release

- Openness and transparency
- Accountability of public bodies



- Information will contribute to public debate on the matter
- Records will demonstrate the thinking behind the decision

Against release

- Release of the records will prejudice a decision yet to be made by the Department in respect of the matter
- Release of the record will place the Department at a disadvantage in the current process which has yet to conclude

On balance, the Decision Maker believes that the public interest against release outweighs the public interest for release, as release of this record would have a harmful effect on the deliberative process underway, the record is being refused at this time.

Rights of Review

In the event that you are not happy with this decision you may seek a review of this decision by writing to the Freedom of Information Officer, foi@justice.ie seeking an internal review of the matter and referring to or enclosing a copy of this letter.

You should submit this application for a review of your request within 4 weeks from the date of this notification, where a day is defined as a working day excluding the weekend and public holidays. The making of a late application for review may be permitted in appropriate circumstances. The review will involve a complete reconsideration of the matter by a more senior member of the staff of this body and the decision will be communicated to you within 3 weeks.

Yours sincerely,

Louise Keane

Louise Keane
Freedom of Information Coordination Officer

29 April 2022