



LEGAL SERVICES
BOARD

Legal Services Board
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FoI request (Ref: 20181219-01)

Thank you for your email of 19 December 2018 requesting information, and further email of 15 January 2019. We have now had the opportunity to fully consider your requests for information following our email of 15 January 2019.

We have dealt with your requests under the Freedom of Information Act 2000 (“FOIA”) and respond to each request below:

1. Any correspondence (including letters and emails) which has passed between the LSB and the SRA in relation to the SRA's investigation and prosecution of Leigh Day (SRA v Day and Others, case no. 11502-2016; [2018] EWHC 2726 (Admin)).

I confirm that we hold one document attached to email correspondence from the Solicitors Regulation Authority (“SRA”) dated 30 October 2017, which refers to the Leigh Day matter. I advise that this information is exempt from disclosure under s44(1)(a) FOIA and is therefore being withheld.

Section 44 FOIA exempts disclosure of information prohibited by law. Section 167(1) of the Legal Services Act 2007 (“LSA”) prohibits the disclosure of ‘restricted information’ to a person other than a ‘restricted person’. The information we hold is restricted information, because it was disclosed by the SRA to the Legal Services Board (“LSB”) during an investigation by the LSB exercising its functions under the LSA. While the prohibition on the disclosure of restricted information does not preclude disclosure in certain circumstances (s168(3) LSA), we consider none override the application of s44(1)(a) FOIA in the circumstances here.

Section 44 FOIA is an absolute exemption and there is therefore no requirement to consider the public interest.

2. The dates of any meetings between the LSB and the SRA at which the investigation/prosecution has been discussed.

I can confirm that meetings between the LSB and the SRA held on 14/11/2018, 12/01/2018, 17/10/2017, 15/09/2017, 25/07/2017 and 18/03/2016 discussed the Leigh Day matter.

Reference to the Leigh Day matter was also made in a meeting of the Solicitors Disciplinary Tribunal (“SDT”) user group committee held on 13/03/2018, attended by a representative each from the LSB and the SRA.

3. The dates of any telephone conversations between the LSB and the SRA at which that investigation/prosecution has been discussed.

We do not hold this information.

4. Any notes of the meetings and telephone conversations referred to in 3 and 4 above.

I confirm the LSB holds notes of the meetings between the LSB and the SRA on the dates in answer (2) above. This information is being withheld under s36(2)(b)(ii) and (c) FOIA. In the opinion of the qualified person, its disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, and would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

As s36 is a qualified exemption, we have considered whether the public interest test in section 2(2)(b) favours the release of the information.

There is a public interest in transparency and accountability of the LSB functions as a public body and thus public trust and engagement, and in informing the public discourse given the level of public interest and the costs involved in the Leigh Day matter. Against this, there is strong public interest in the LSB having a free and frank ongoing open dialogue with the SRA. The meetings notes are taken by the Chief Executive of the LSB of monthly meetings with the Chief Executive of the SRA; no one else is present. These meetings provide an informal forum and safe space for the free and frank exchange of views and opinion at the most senior levels within the respective organisations. They provide a valuable opportunity for the LSB to gain insight into operations and functions of the SRA, of which it has statutory oversight, and provides both parties with an informal forum in which to raise issues in candour. These meetings are essential to inform the LSB’s consideration and discharge of its statutory role as the oversight regulator of the SRA. Disclosure of the Chief Executive’s notes of the meetings would, or would be very likely to inhibit the free and frank exchange of views and opinions between the LSB and SRA at chief executive level for the purposes of deliberation (s36(2)(b)(ii)), and would otherwise prejudice, or would be very likely to otherwise prejudice the effective conduct of public affairs (s36(2)(c)).

The SDT user group meeting minutes were obtained in the course of the LSB’s discharge of its functions in relation to the SDT. The meeting in question was held and minuted subject to the *Chatham House Rule*. Disclosure would have a chilling effect on the free and frank exchange of views for the purposes of deliberation (s36(2)(b)(ii)), and otherwise prejudice the effective conduct of public affairs (s36(2)(c)).

The information in relation to Leigh Day contained in the Chief Executive’s notes and the SDT user group committee minutes is already in the public domain. It is covered by disclosures already made by the SRA, Ministry of Defence, and Ministry of Justice, as well

as the SDT and High Court judgments. Therefore, we do not consider that the disclosure of the information we hold would add significantly to the public discourse.

Having considered the public interest, our decision is to withhold the information. This is because in all circumstances of this case, the public interest in maintaining the s36(2)(b)(ii) and (c) exemptions outweighs the public interest in disclosing the notes and minutes.

Finally, I note the points you raised in your email of 15 January 2019. As you will be aware, it is for the LSB to determine where the balance of the public interest lies in where s36(2)(b)(ii) and (c) are engaged. I advise that the LSB's qualified person is Neil Buckley, Chief Executive.

If you are dissatisfied with this response to your request for information, you have the right to ask for an internal review / to submit a complaint (see [LSB's Freedom of information – Complaints procedure](#)).

If you are dissatisfied with the outcome of your complaint, you may refer the matter to the Information Commissioner for a decision. Please be aware that the Commissioner will be unlikely to make a decision until you have been through our internal complaints procedure first. You can write to the Commissioner at:

FOI/EIR Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

The reference for your request, which should be quoted in all correspondence, is:
20181219-01.