Dear Madam/Sir:

I refer to your response of 28 July 2014 to my request for information. Thank you for your response to my information request in respect of:

All records held – including minutes, meeting reports, emails or letters – in relation to the following external meetings between Sir Jeremy Heywood and

1. The Daily Mail – April 2013
2. The Independent – May 2013
3. The Guardian (Alan Rusbridger) – June 2013
5. The Telegraph (Tony Gallagher) – October 2013

I accept the absolute exemption cited in respect of some of the information held which has been provided by, or relates to the security or intelligence services. However, my concern is primarily with information pertaining to the meetings themselves rather than any background or contextual information that may be subject to the absolute exemption.

In respect of other relevant information held, your response invokes exemptions under Section 35(1)(a) and (b) of the Freedom of Information Act 2000. However, I do not accept the outcome of the public interest test as required by these exemptions and explained in your response.

In respect of the exemption under Section 35(1)(a), invoked to protect “the formulation of policy”, official guidance from the Information Commissioner states that:

“Public interest arguments should focus on potential damage to policymaking from the content of the specific information and the timing of the request. Arguments will be strongest when there is Government policy a live policy process to protect.”

It is not clear from your response what policy process is under consideration in this case. Further guidance from the Information Commissioner gives several examples of what might qualify as indicative of a policy process, none of which are mentioned in your response and none of which I believe are applicable in this case. The guidance also states that when invoking this exemption, it is “important to identify where policy formulation or development ends and implementation begins” and that “arguments must focus on the effect of disclosing the particular information in question at the particular time of the request, rather than the effect of routine disclosure of that type of

information.” There is no such reference in your response or indication as to why and how disclosure of the particular information held might impact on policymaking.

In regard to the exemption under Section 35(1)(b), the Information Commissioner’s guidance states that when invoking the exemption, departments should “focus on protecting ministerial unity and effectiveness, and protecting ministerial discussions and collective decision making processes.” Your response makes clear that this exemption is invoked ultimately to protect “the quality of debate underlying collective decision making”. However, no reference is made as to what ministerial decisions or views may be relevant in this case. Further guidance from the Information Commissioner states that departments should “be careful to ensure that collective responsibility actually applies to the particular information in question: ie that it reveals the view of an individual minister on a government decision.” Given that the information requested relates to meetings between a senior civil servant and newspaper editors, it would seem all the more pertinent to explain how information in regard to these meetings relates to ministerial decisions or decision making processes.

It is also not clear from your response whether or how a separate public interest test has been carried out in respect of each of the above exemptions, and a clear conclusion reached in relation to each.

Finally, the Information Guidance states that in general, “departments should always consider whether there are additional arguments in favour of disclosure, relating to the particular circumstances of the case”. Since the unfolding of the phone hacking scandal in 2011 and the subsequent Leveson Inquiry into the Ethics and Practices of the Press, there has been heightened public awareness and debate around issues relating to both press freedom and press accountability. Meetings between the cabinet secretary and editors of the national press are of intrinsic and acute public interest in relation to both of these concerns. In light of this, it would seem that disclosure of the information held is all the more vital to the public interest in this case.

It is for these reasons that I am respectfully requesting an internal review of your decision. I also note that your response was received 17 days after expiry of the statutory time limit under the Act and two reminders sent by email. Whilst I fully appreciate that there may be acceptable reasons for this delay, no explanation was offered. I am therefore requesting that you inquire into the causes of this delay as part of the internal review.

In light of the delay, I would be very grateful if you would ensure that this review is conducted in a timely fashion and that a response is received within no more than 20 working days, as per the Information Commissioner’s guidance.

Yours sincerely

Justin Schlosberg