



# Government Legal Department

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Your ref: [REDACTED]  
Our ref: [REDACTED]

29 May 2020

Dear Sirs

**The Queen (on the application of Simon Dolan and Lauren Monks) v (1) Secretary of State for Health and Social Care; and (2) Secretary of State for Education – CO/1860/2020**

We write in response to your letters of 22 May 2020 and 29 May 2020. Your letters refer to a matter that your clients have raised (for the first time) in their claim, issued on 21 May 2020 and served on 26 May 2020. The Pre-Action Protocol was not followed in respect of those arguments.

You are aware that the Court has ordered the Defendants to file an Acknowledgement of Service and Summary Grounds by 4pm on 12 June 2020. The Defendants are entitled to respond in full to the claim and intend to do so by the date ordered by the Court.

Yours faithfully

[REDACTED]

**For the Treasury Solicitor**

[REDACTED]

[REDACTED]





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## By email

Date 1 June 2020  
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Dear Sirs

### **The Queen (on the application of) Simon Dolan & Anor v The Secretary of State for Health & Social Care & Anor**

We note that on the afternoon of Friday 29 May 2020, the Government published the minutes of 34 meetings of the Scientific Advisory Group for Emergencies (SAGE).

You will recall that in our client's pre-action protocol letter dated 30 April 2020 we specifically requested that the SAGE minutes relating to the Covid-19 outbreak be disclosed, failing which we would be applying to the Court for such disclosure as part of our client's judicial review proceedings.

In your response of 14 May 2020, you specifically rejected the request for disclosure and confirmed that the Government would not provide them.

Accordingly, in preparing our client's application for judicial review, we included in the statement of grounds a request for disclosure. A detailed section in Mr Gardner's witness statement of 20 May 2020 and supporting exhibits were specifically directed at this particular issue.

The Government has now belatedly complied with our client's original request by disclosing the SAGE minutes. However, it has only done so a few days after the service of our client's proceedings. Considerable costs have therefore had to be incurred by our client in relation to the disclosure application. In the circumstances, we consider that our client is clearly entitled to his costs associated with the application for disclosure of the SAGE minutes.

We thus put you on notice that to the extent necessary at the appropriate time, we will draw these facts to the attention of the Court when the question of the costs of the proceedings falls to be determined.

Yours faithfully

Wedlake Bell LLP

cc [REDACTED]

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DOL/0041/00001/20866010/1

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## Second letter

Dear Sirs

### **The Queen (on the application of) Simon Dolan & Anor v The Secretary of State for Health & Social Care & Anor**

We refer to your letter of 29 May 2020.

As you know, on 22 May we asked you to confirm on what legal basis the Government ordered the closure of the nation's schools and on what basis it purported to be directing when they should reopen. We said this:

*"What is the Government's position? Is it the Government's case that Mr Williamson exercised his power under Schedule 16 of the Coronavirus Act 2020 and made a direction that schools must close (except for children of so-called critical workers) or is the Government's position that they were closed and remain closed under the terms of the Regulations introduced by Mr Hancock? Please provide us with the answer."*

We chased you for a response to this request on 29 May. You responded the same day by declining to answer our question on the basis that the Court had directed that the Government had until 12 June by which to acknowledge service and respond to the claim.

With respect, we do not understand why you cannot provide with an answer to what, on the face of it, must be a simple question for the Government to answer. Unless there has been a lawful basis for ordering the closure of schools, then significant numbers of children have been and are being unlawfully deprived of their education.

In this regard, we note that on Friday 29 May, the Government published a "Two Month Report" concerning the Coronavirus Act 2020 in which it confirmed that the power of the Secretary of State under s37 / Schedule 16 of the Act had not been used. We note also that the amended Regulations introduced with effect from today now expressly permit gatherings for the purposes of education.

The question therefore remains: on what basis were schools ordered to close back in March and on what basis have they remained closed (other than to children of critical workers and, with effect from today, certain classes of younger children)?

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We do not see why this cannot be explained now and why it is necessary to wait another 11 days for a response.

Yours faithfully

*Wedlake Bell LLP*

Wedlake Bell LLP

cc

