



# Ministry of JUSTICE

**Interpretation Project Team**  
Ministry of Justice  
102 Petty France  
LONDON  
SW1H 9AJ

## **Brendan Pells**

[request-132188-66fee7fc@whatdotheyknow.com](mailto:request-132188-66fee7fc@whatdotheyknow.com)

E: [Interpretationproject@justice.gsi.gov.uk](mailto:Interpretationproject@justice.gsi.gov.uk)

[www.justice.gov.uk](http://www.justice.gov.uk)

**Our Reference:** 78508

2 November 2012

## **Freedom of Information Request**

Dear Mr Pells,

Thank you for your email of 5 October, in which you asked for the following information from the Ministry of Justice (MoJ):

**“My request relates to the provision of Interpreting services to Courts and Tribunals under the Framework contract awarded to Applied language Solutions Ltd (ALS).**

- 1. For the period 1st February 2012 to 30th September 2012, how many bookings were placed with ALS for interpreting assignments?**
- 2. How many of the bookings described in 1) above were successfully fulfilled by the contractor?**
- 3. How many of the fulfilled bookings described in 2) above were done by linguists assessed as being Tier 1 or Tier 2 as defined by framework contract?”**

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

I can confirm that the department holds information that you have asked for under parts 1 and 2 of your request for the period between February to August 2012.

However, the information is exempt under section 21(3) of the FOI Act because it is reasonably accessible to you by other means. This is an exemption under the FOIA which means that we do not have to consider whether or not it would be in the public interest for you to have the information.

But outside of the Act and on a discretionary basis, I am pleased to inform you that you can access the information via the following link:

<http://www.justice.gov.uk/statistics/courts-and-sentencing/language-services-in-use>

I can also confirm that the department holds information that you have asked for under parts 1 and 2 of your request for the period between 31 August 2012 to 30

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September 2012. We will also not be providing it to you in this case as it is exempt from disclosure

We are not obliged to provide information that is intended for future publication (section 22 of the Act). It is intended that a further update to the statistics will be published within the next 6 months.

In line with the terms of this exemption in the Freedom of Information Act, I have also considered whether it would be in the public interest for us to provide you with the information ahead of publication, despite the exemption being applicable. In this case, we have concluded that the public interest favours withholding the information.

When assessing whether or not it was in the public interest to disclose the information to you, I took into account the following factors:

**Public interest considerations favouring disclosure**

- The Freedom of Information Act acknowledges the desirability of information being made freely available.
- Also, there is a general public interest in providing information, as this ensures the transparency of government operations, and the spending of public money.

**Public interest considerations favouring withholding the information**

- The Act recognises that public authorities must have the space to determine their own publication timetables in order to allow the necessary preparation, administration and context of publication.
- Disclosure of this information is scheduled for release by MOJ within the next 6 months. Therefore to prematurely disclose this information may disrupt the Government's consistent approach to communicating this information to the public.
- Premature disclosure could also lead to comments being taken out of context which as a result may lead to an inaccurate and misleading indication of the performance of the Department.
- Finally, there is a general public interest in ensuring that the general public has access to this information at the same time. Disclosing this information in advance of its intended publication date would prejudice the right of others to equality of access.

It is my assessment that, on balance, the public interest is better served by withholding this information under Section 22 of the Act at this time.

You can find out more about Sections 21 and 22 by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of this letter.

You can also find more information about sections 21 and 22 by reading the full text of the Act, available respectively at:

<http://www.legislation.gov.uk/ukpga/2000/36/section/21> and further guidance <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance> and <http://www.legislation.gov.uk/ukpga/2000/36/section/22> and further guidance <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>

With regards to part 3 of your request, I can confirm that MoJ does not hold the information you have requested.

But outside of the terms of the FOIA and on a discretionary basis I can tell you that Capita has recently confirmed in evidence to the Justice Committee that tier 3 interpreters are used in approximately 2% of cases, in agreement with the court or tribunal. The remainder of cases were dealt with by either a tier 1 or tier 2 interpreter.

You can find out more about information held for the purposes of the Act by reading some guidance points we consider when processing a request for information, attached at the end of this letter.

You can also find more information by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/contents> and further guidance <http://www.justice.gov.uk/guidance/foi-step-by-step.htm>

You have the right to appeal our decision if you think it is incorrect. Details can be found in the 'How to Appeal' section attached at the end of this letter.

#### Disclosure Log

You can also view information that the Ministry of Justice has disclosed in response to previous Freedom of Information requests. Responses are anonymised and published on our on-line disclosure log which can be found on the MoJ website: <http://www.justice.gov.uk/information-access-rights/foi-requests/latest-moj-disclosure-log>

The published information is categorised by subject area and in alphabetical order.

Yours sincerely

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## **How to Appeal**

### **Internal Review**

If you are not satisfied with this response, you have the right to an internal review. The handling of your request will be looked at by someone who was not responsible for the original case, and they will make a decision as to whether we answered your request correctly.

If you would like to request a review, please write or send an email to the Data Access and Compliance Unit within two months of the date of this letter, at the following address:

Data Access and Compliance Unit (10.34),  
Information & Communications Directorate,  
Ministry of Justice,  
102 Petty France,  
London  
SW1H 9AJ

E-mail: [data.access@justice.gsi.gov.uk](mailto:data.access@justice.gsi.gov.uk)

### **Information Commissioner's Office**

If you remain dissatisfied after an internal review decision, you have the right to apply to the Information Commissioner's Office. The Commissioner is an independent regulator who has the power to direct us to respond to your request differently, if he considers that we have handled it incorrectly.

You can contact the Information Commissioner's Office at the following address:

Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire  
SK9 5AF  
Internet address: [https://www.ico.gov.uk/Global/contact\\_us.aspx](https://www.ico.gov.uk/Global/contact_us.aspx)

## **EXPLANATION OF INFORMATION HELD FOR THE PURPOSES OF THE ACT**

We have provided below additional information for information held for the purposes of the Freedom of Information Act. We have included some of the guidance we use when considering requests for information. I hope you find this information useful.

### **Is the information 'held' for the purposes of the Act?**

A person may request any information 'held' in any recorded form by a public authority (or held by another on behalf of a public authority).

If the requester is asking for an opinion on an issue or asking for information that is not already held to be created, this is not a Freedom of Information Act request.

### **Information covered by the Act**

All recorded information 'held' by a public authority is within the scope of the Freedom of Information Act. It includes files, letters, emails and photographs and extends to closed files and archived material.

### **Recorded information**

The right of access applies to information recorded in any form. This includes:

- information that is held electronically (such as on a laptop computer or an electronic records management system)
- information that is recorded on paper (such as a letter, memorandum or papers in a file)
- sound and video recordings (such as a CD or videotape)
- hand-written notes or comments, including those written in note pads or on Post-it notes

### **Is the information 'held' under the Freedom of Information Act?**

'Holding' information includes holding a copy of a record produced or supplied by someone else. However, if a public authority only holds information on behalf of someone else, for example a department holding trade union information on their computer system, then that public authority may not have to provide the information in response to a Freedom of Information Act request.

In some cases, it may not be clear whether information which is physically present on your premises or systems is properly to be regarded as 'held' by your public authority, for the purposes of the Freedom of Information Act. Examples include:

- private material brought into the office by ministers or officials
- material belonging to other people or bodies
- trade union material
- constituency material
- material relating to party political matters.

## **EXPLANATION OF FOIA - SECTION 21 – INFORMATION ACCESSIBLE BY OTHER MEANS**

We have provided below additional information about Section 21 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

### **The legislation**

#### **Section 1: Right of Access to information held by public authorities**

- (1) Any person making a request for information 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 that is the case, to have that information communicated to him.

#### **Section 21: Information accessible to applicant by other means**

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1)—
- (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
  - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

### **Guidance**

Section 21 exempts information from the right of access under the Freedom of Information Act if that information is reasonably accessible to the applicant by other means.

Section 21 is aimed at preserving intact all existing laws providing access to information. The Freedom of Information Act is not designed to subsume other legal access rights, nor to give alternative routes of access where existing regimes are already available. The Freedom of Information Act access rights build on, but do not replace, previous access rights. Those existing rights, and the separate procedural regimes which are tailored to them, continue in place, and the Freedom of Information Act observes corresponding limits to its role.

Section 21 also confirms that the Freedom of Information Act does not provide alternative means of access to information which is already freely available, either through commercial publishing operations or through existing publicly funded provision. The Freedom of Information Act rights are designed to supplement, and

not to duplicate, the usual flow of information to the public through the commercial electronic and print media, and through existing library and archive services.

Section 21 is an absolute exemption, which means that no consideration of the public interest test is required to withhold information.

## **EXPLANATION OF FOIA - SECTION 22 – INFORMATION FOR FUTURE PUBLICATION**

We have provided below additional information about Section 22 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

### **The legislation**

#### **Section 1: Right of Access to information held by public authorities**

- (1) Any person making a request for information 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 that is the case, to have that information communicated to him.

#### **Section 22: Information intended for future publication**

- (1) Information is exempt information if—
- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
  - (b) the information was already held with a view to such publication at the time when the request for information was made, and
  - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).
- (2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

### **Guidance**

Section 22 exempts information requested by an applicant if it is intended for future publication. It encourages public authorities to place information in the public domain proactively.

The Freedom of Information Act recognises the desirability of information being freely available in its own right, but section 22 also acknowledges that public authorities must have freedom to be able to determine their own publication timetables. This allows them to deal with the necessary preparation, administration and context of publication. Where information is intended to be made available, individual requests for information should not determine the publication timetables of public authorities. This protection is afforded whether it is the public authority itself or another person which intends to publish – whether an individual, a company or another public authority.

The starting point for section 22 is that it exempts information which is held by a public authority with a view to its publication, by the authority or any other person, at some future date. The exact date, however, does not necessarily have to be decided



already. When using the section 22 exemption, you should consider whether it is possible and appropriate to disclose the expected publication date.

Section 22 is subject to two important qualifications:

- it must be reasonable in all the circumstances to withhold the information until the date of publication
- the public interest test must be satisfied

These qualifications recognise that sometimes there will be an overriding public interest in the information being released prior to the intended publication date. Public authorities should not be able to avoid putting information in the public domain by adopting unreasonable publication timetables or an 'intention' to publish where there is little prospect of that happening within a reasonable timescale.