



# Ministry of Justice

**Mr Dan Wilks**

request-206945-3c1960c7@whatdotheyknow.com

By e-mail.

**Christopher Owens**

**Senior Policy Manager**

Legal Aid and Legal Services Policy, Law  
and Access to Justice Policy Group

4<sup>th</sup> Floor (4.42), 102 Petty France,  
London, SW1H 9AJ

**T** 020 3334 4420

**E** christopher.owens@justice.gsi.gov.uk

**[www.gov.uk/moj](http://www.gov.uk/moj)**

**Our Reference:** 90201 (inc. 90246)

12 May 2014

## **Freedom of Information Request**

Dear Mr Wilks,

Thank you for your e-mail of 12 April 2014, in which you asked for the following information from the Ministry of Justice (MoJ):

- 1. Annual expenditure on advertising and promotion of all legal aid changes brought about by the Legal Aid, Sentencing and Punishment of Offenders Act [LASPO] 2012.**
- 2. Annual expenditure on advertising and promotion of the Civil Legal Advice [CLA] Gateway in particular.**
- 3. Please provide details of how this money was spent and where, and how, changes to Legal Aid and the CLA Gateway were communicated.**
- 4. The communication strategy document (or equivalent) for the CLA Gateway**
- 5. The annual expenditure on promotion and advertising for the CLA Gateway and a breakdown of expenditure**

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

I can confirm that the MoJ holds some of the information that you have requested.

For parts one, two, and five of your request I can confirm the Department does not hold this information. This is because there is no separate dedicated communications budget for the changes brought about by LASPO, nor the CLA helpline.

The costs of all communications in relation to the changes introduced by LASPO were met centrally by the LAA Implementation programme and MoJ Policy, as appropriate.

Please be advised that the FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. It does not place a duty upon public authorities to answer a question unless recorded information exists. The FOIA duty is to only provide the recorded information held.

Regarding part three and four of your request, I can confirm that the MoJ holds this information and I am pleased to provide this to you in the attached documents.

In respect of advertising and promotion, it might assist you to know that historically, clients have found their way to either the CLA helpline (previously known as Community Legal Advice) or face-to-face legal aid advice providers via third party providers (e.g. Citizens Advice Bureau) or signposting, such as in HMCTS/Other Government Department forms and leaflets.

Prior to the implementation of the LASPO, the MoJ worked with a range of key referral partners to provide them with appropriate briefing about the CLA service, including how this would now also act as the gateway for specified types of cases (i.e. Special education Needs, Discrimination and Debt) and future legal aid availability. This particularly addressed how to apply for legal aid, both generally and in respect of those areas subject to the gateway and the support available for callers with disability needs.

MoJ provided dedicated information materials aimed at those working in the advice sector to communicate the changes to the CLA gateway, noting this is the traditional and predominant way people access these services. I have attached a copy of those materials for your information. Specifically:

- **A leaflet titled – “Legal aid in debt, discrimination and special educational needs cases - A summary of what you need to do”**

To support both our referral partners and clients, generally, in identifying the correct route for a particular problem, we also introduced the new online legal aid checker available at [www.gov.uk](http://www.gov.uk). This allows clients to check for eligibility, and then, if eligible, directs them to relevant sources of assistance, including to the CLA helpline/gateway, face to face legal aid providers and mediation services, as appropriate. Clients who are not eligible for legal aid are directed to appropriate alternative sources of assistance.

Also attached are three further documents which are our internal “Channel Strategy” documents which detail:

- **The plan we formulated for how to communicate the changes you’re concerned with via the different “channels” Called “Channel Strategy – Key Tasks and Dates”;**
- **The “Annex B - Key Milestones Monitor”;** and,
- **A list of key service providers we targeted as part of this exercise.**

Regarding the document “Annex B – Key Milestones Monitor”, it should be noted that it details the position of progress at the end of May 2012, as this is the latest version held on any of our central document repositories. The Online Gateway Project (now known as the Online Legal Aid Checker) subsumes many of the tasks contained in Annex B to the strategy. These were all completed on time to enable the service to go live at midnight on 31 March 2013. As I have already explained, relevant information on the introduction and operation of the Gateway was shared and discussed with key partners in the lead up to the launch. MoJ reviewed the changes subsequently made by partners to the information provided by them on the availability of legal aid during summer and autumn 2013. Responsibility for the channel strategy was transferred to the LAA at the end of March 2014.

On the same document referred to in the paragraph above, please note the name(s) of officials have been removed under s.40 (2) of the Act

We are not obliged, under section 40(2) of the Act, to provide information that is the personal information of another person if releasing would contravene any of the provisions in the Data Protection Act 1998 (DPA) for example, if disclosure is unfair. Junior officials within the Department not in public facing roles would not expect their name to be released into the public domain.

The terms of this exemption in the Freedom of Information Act mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

You can find out more about section 40 (2) and information held for the purposes of the Freedom of Information 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>.

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: <https://www.gov.uk/government/organisations/ministry-of-justice/series/freedom-of-information-disclosure-log>

Yours sincerely

**CHRISTOPHER OWENS**

## 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 **within two months of the date of this letter** to the Data Access and Compliance Unit 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 40(2) – INFORMATION RELATING TO THIRD PARTIES**

We have provided below additional information about Section 40(2) 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 40: Personal Information.**

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—
  - (i) any of the data protection principles, or
  - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
- (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

### **Guidance**

Section 40 of the Freedom of Information Act applies to:

- requests for the personal data of the applicant him or herself
- requests for the personal data of someone else (a third party)

Personal data of a third party: Personal data of a third party is exempt under section 40(2) if its disclosure to a member of the public would contravene one or more of the data protection principles and a request must be refused.

#### **The Data Protection Principles:**

The data protection principles are a statutory code for the processing of personal data. They are set out in Part I of Schedule 1 to the Data Protection Act.

Three data protection principles require personal data to be:

- fairly and lawfully processed
- processed for specified and lawful purposes
- adequate, relevant and not excessive
- accurate, and kept up to date
- not kept longer than necessary
- processed in accordance with individuals' rights under the Data Protection Act
- kept secure
- not transferred to non-EEA (European Economic Area) countries without adequate protection

The principle most likely to be relevant to the disclosure of information under the Freedom of Information Act is the first principle. This requires personal information to be:

- processed 'fairly'
- processed 'lawfully'
- not processed at all unless one of the 'conditions' for fair processing is met

Processing in this context includes disclosure.

In most cases, personal data will be exempt if disclosure would be 'unfair'. Disclosure of personal data relating to a third party will often breach the fair processing principle if there was a legitimate expectation by a third party that this information would remain confidential.