



Ministry of JUSTICE

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Mr Tony Hirst

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Freedom of Information Request

Dear Mr Hirst,

Thank you for your email of 18 July 2013, in which you asked for the following information from the Ministry of Justice (MoJ):

Please may I have copies of your departmental spending data over £25,000 for months from November 2012 up to and including May 2013 as electronic data files or let me know where I could find such data.

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, but it is exempt from disclosure because it is intended for future publication.

We are not obliged to provide information that is intended for future publication (section 22 of the Act). In line with the terms of this exemption in the Freedom of Information Act, we have 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, I have concluded that the public interest favours withholding the information.

You can find out more about Section 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 by reading the full text of the Act, available at <http://www.legislation.gov.uk/ukpga/2000/36/section/22>.

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

Public interest considerations favouring disclosure

- There is a general public interest in the immediate disclosure of information to ensure departmental transparency and accountability.

Public interest considerations favouring withholding the information

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- We are reviewing internal governance processes relating to preparation and publication of transparency data so it is in the public interest to check and verify the statistics and figures for accuracy before they are released.
- It is also in the public interest to ensure that the publication of official information is a properly planned and managed process, to ensure that data are accurate once it is placed into the public domain.

We reached the view that, on balance, the public interest is better served by withholding this information under Section 22 of the Act at this time.

The work to update our >£25,000 transparency data is ongoing. We are working to publish the data for November and December 2012 shortly, followed by the subsequent months from this Autumn onwards at the following link:

<https://www.gov.uk/government/publications/spend-over-25-000>

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

Emma McGahren

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

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

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.