



Ministry of Justice

Steven King
request-179927-65cd927f@whatdotheyknow.com

Indy Kaur
Knowledge and Information
Liaison Officer
Office of the Public Guardian

PO BOX 16185
Birmingham
B2 2WH

F [0870 739 4078]
E [OPGFOIEnquiries@publicguardian.gsi.gov.uk]

www.gov.uk

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25 October 2013

Freedom of Information Request

Dear Mr King,

Thank you for your email of 05 October 2013, in which you asked for the following information from the Ministry of Justice (MoJ):

“to identify and make me aware of ALL Legislation, guidelines , policies and other relevant documents that were referred to and used in the preparation of your Safeguarding Policy (May 2013), so I may try to better understand the process that is about to commence”

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 and I am pleased to release this information to you. Please see the attached table where I have listed all documents and information recorded by the OPG as being referred to and used in the preparation of the Safeguarding Policy. I have also provided links to where the information can be accessed, where possible.

Some of the information is exempt under section 21 of the FOI Act because it is reasonably accessible to you as it is referred to in text and footnotes of the Safeguarding Policy itself, and I am pleased to inform you that you can access it via the following link: <http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/safeguarding-policy.pdf>.

Section 21 of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have that information. With that being said, I have disclosed the exempt information to you on a discretionary basis on the accompanying table also.

You can find out more about Section 21 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/21> and further guidance

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>

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

Indy Kaur
Knowledge and Information Liaison Officer
Office of the Public Guardian

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

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 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.