



Ministry of JUSTICE

FOI Policy and Strategy
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Freedom of Information Request

Dear Ms Gundersen

Thank you for your email of 9 November, in which you asked for the following information from the Ministry of Justice (MoJ):

"During Justice Questions in the House of Commons on 8 November 2011, the Parliamentary Under Secretary of State, Jonathan Djanogly, said "we intend to extend the [Freedom of Information] Act to over 100 more organisations through the Protection of Freedoms Bill. We have also begun consultations with more than 200 further bodies about their possible inclusion. Next year we plan to consult 2,000 housing associations and the housing ombudsman." Hansard, 8 Nov 2011, Col 146 <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111108/debtext/111108-0001.htm#11110869000509>

Could you please supply me with:

(a) the names of the "more than 200 further bodies" with which consultations have begun;

(b) any template letter(s) the Department has sent to these bodies seeking their views as part of the consultation process; and

(c) the names of the "over 100 more organisations" the Department estimates will be brought under the Act's scope via the Protection of Freedoms Bill.

I am aware that the Department's news release 'Opening up public bodies to public scrutiny' of 7 January 2011 named some bodies which would be consulted, but as far as I'm aware, the names of all the bodies being consulted have not been made public."

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

I can confirm that we hold information within the scope of your request. I have attached the relevant information to the email. However, the contact details of junior officials are exempt under section and 40(2) (personal data) of the FOIA, and have been redacted. These redactions have been made in accordance with the guidance I have supplied, and on the basis that disclosure would breach the provisions of the Data Protection Act. The guidance provides a more detailed explanation.

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As well as the template consultation letter used, I have attached lists of the bodies which we are consulting on their possible inclusion under the FOIA through section 5. These were announced in our press release of 7 January this year individually, or in the case of harbour authorities and awarding bodies, as a class of organisation. You can find the press release on the following webpage:

<http://www.justice.gov.uk/news/press-releases/moj/press-release-070111a.htm>

I attach a list of bodies we believe are likely to be brought within the scope of the FOIA through the amendment to section 6. We do not hold a comprehensive list of all bodies which will come within scope of the FOIA through this change. However, we carried out targeted research on a number of local authorities to estimate the number of bodies likely to be affected by this change within local government, and the list I have provided is the result of this research. I should clarify that the information on the list simply reflects the responses provided by the local authorities we contacted (green colour code) or from our own research (pink colour code). We have estimated from this information that the number of bodies that will be brought within scope under the changes to section 6 will be at least 100. Further detail on how the impact of the amendment to section 6 in the Protection of Freedoms Bill can be found in the impact assessment published to accompany the Bill at:

<http://www.homeoffice.gov.uk/publications/about-us/legislation/freedom-bill/extending-foi-ia> .

If you are unhappy with the result of your request for information, you may request an internal review within two calendar months of the date of this letter by writing to:

Data Access and Compliance Unit
Information Directorate
Ministry of Justice
6th Floor, Zone B
102 Petty France
London
SW1H 9AJ

or via email to data.access@justice.gsi.gov.uk

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

If you have any queries about your request please feel free to contact me.

Yours sincerely

Miss J Peterson

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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 M1Data 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 M2Data 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.

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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.