

3rd March 2016

Dear Constituents,

Thank you for contacting me about the Freedom of Information Act and private companies.

I appreciate your concern on this issue. However, I think it is important to consider what the Act already covers, which includes material held by a private company on behalf of a public authority with which it has a contract. All information held by a public authority is already within the scope of the Act, including communications with third party contractors. Public authorities are also obliged to answer requests about contracts with private providers, although exemptions do exist for commercially sensitive material.

The last Labour Government consulted, in 2007, on extending Freedom of Information to a wider range of bodies carrying out functions of a public nature. In 2009, it was concluded that no expansion of Freedom of Information in relation to contractors was appropriate. Indeed, it is already possible for contractual terms set with private providers to include requirements to protect the right to access information about service provision.

The House of Commons Justice Select Committee has also concluded that contractual arrangements are more appropriate to deal with such matters than designation of further organisations under Section Five of the Act, which allows for more organisations to be brought within its scope. Another issue to take into account is the effect of extra regulation on firms, as it would push up the compliance cost of public sector contracts, with taxpayers left to foot the bill.

As you may know, the Independent Commission established by the Government to review the Freedom of Information Act has now published its report. The Commission did not consider what types of bodies should be covered by the Act to be within its terms of reference, although it did express provisional views on the matter.

The Commission was clear that extending the Act directly to private companies delivering outsourced public services would be burdensome and unnecessary. However, it also said that information concerning the performance or delivery of public services under contract should be treated as being held on behalf of the contracting public authority. Considering such information in this way would bring it within the scope of the Act. Importantly, though, this was a provisional view rather than a recommendation of the Commission.

The Government has already responded to some recommendations made and will carefully consider the others. It has, though, stated that it has no current plans for legislation. I would emphasise that the Government has already demonstrated its commitment to openness through the publication of around 23,000 datasets on data.gov.uk, including openness on contracts, tenders and spending on contractors. I look forward to the Government publishing the next Open Government Partnership national action plan later this year.

Alok Sharma, MP for Reading West

Thank you again for taking the time to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Alok".

Alok Sharma MP