

Freedom of Information Act 2000

Decision notice

Date: 12 August 2015

Public Authority: Department for Work and Pensions

Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant requested information about managers working for the Department for Work and Pensions (DWP) with responsibility for the London area. The DWP responded with some held information but withheld some under section 40(2) of the Freedom of Information Act 2000 (the Act) as it was third party personal data. During the course of the investigation the DWP located further relevant information and provided the information withheld under section 40(2).
2. The Commissioner's decision is that the DWP has not provided the complainant with all of the information it holds that comes within the scope of his request. In doing so it has breached section 1 of the Act. Additionally, the DWP failed to respond within the required timeframe to an additional request made by the complainant in the course of requesting an internal review. This is a breach of section 10 of the Act, but as the response has been provided the Commissioner does not require any steps in relation to that request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a new response which accounts for the further information the DWP holds in relation to items 1 and 2 of the complainant's request.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 21 October 2014, the complainant wrote to the DWP and requested information in the following terms:

1) Please provide the contact details for DWP-managers (esp. District-managers, Contract-managers, JobCentre-managers, Benefit Delivery Centre-managers) in/for London (meaning: with responsibility for parts/all of London) together with their official title, name, location, + email address.

2) Please provide us with responsibilities + functions of DWP-managers (esp. District managers, Contract-managers, Benefit Delivery Centre-managers, JobCentre managers, + more senior posts) in/for London (meaning: with responsibility for parts/all of London).

3) This can be either as list or organogram; + preferably by email.

4) Please provide us with numbers of claimants per JobCentre in 2013 for all London JobCentres.

6. The DWP responded on 18 November 2014 as follows:

- Items 1 – 3 of the request – provided some held information but withheld some contact details under section 40(2) of the Act as it was considered to be third party personal data.
- Item 4 of the request – provided a link to a website with information relevant to the request.

7. The complainant responded to this refusal notice on 24 November 2014 with a series of objections to the DWP's position for items 1 – 2 of the request. In addition to this he also made a separate request for:

2.5) + can you add the most recent efficiency, transparency and accountability policies? + any recorded info on how the public can evaluate the service-delivery (of the DWP) + feed-back?

8. The response to this additional request was provided during the course of the Commissioner's investigation.

9. The DWP issued its internal review response for the handling of items 1 and 2 of the original request on 10 March 2015. It provided some further information within the scope of the request but maintained the

section 40(2) refusal. It also stated that it would not respond to the additional request.

Scope of the case

10. The complainant contacted the Commissioner on 24 December 2014 to complain about the way his request for information had been handled. The basis of his appeal at this time was the length of time the DWP was taking to carry out its internal review.
11. After the DWP issued its internal review the Commissioner asked if the complainant wished to maintain his appeal against the response. The complainant confirmed that he did. At this point the appeal was against the DWP's failure to respond to the additional request, whether it was entitled to withhold information under section 40(2), and whether further information was held for items 1 and 2 of his initial request.
12. During the course of the Commissioner's investigation the DWP provided further information to the complainant that it had not previously located. It also provided the information previously withheld under section 40(2). As a result of those developments, the Commissioner considers that the scope of the case is whether the DWP issued a response to the complainant's additional request of 24 November 2014 within the statutory time limit of the Act, and whether further information is held for items 1 and 2 of the complainant's initial request.

Reasons for decision

Request of 24 November 2014

Section 10 – timeliness for response

13. Section 1(1) of the Act states that upon receipt of a request a public authority must confirm or deny whether information is held, and if that information is held it must be communicated to the requester.
14. Section 10(1) of the Act states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
15. The complainant's additional request was submitted within his request for an internal review on 24 November 2014. The DWP referred to this additional request within its internal review outcome of 10 March 2015 so it was certainly aware of the request, but did not provide a response until 23 March 2015 after being prompted by the Commissioner.

16. The DWP took more than 20 working days to issue a response to the complainant's request. It has therefore breached section 10(1) of the Act. The Commissioner expects the DWP to be more diligent in identifying additional requests for recorded information within correspondence and finding satisfactory ways in which to address the requests.

Request of 21 October 2014

Section 1 – information held

17. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner, in accordance with a number of First-Tier Tribunal decisions, applies the civil standard of the balance of probabilities.
18. The DWP and the complainant are in dispute over how much information comes within the scope of items 1 and 2 of the request, despite the DWP having provided three responses to the complainant with an increased amount of information each time.
19. The Commissioner identified information online that suggested that further information is held that would come within the scope of the complainant's request.¹ The combined information from the senior and junior managers based on salary banding showed that there were potentially hundreds of additional DWP managers that were not included in its response to the complainant. The Commissioner considered this indicated further relevant information is held, as the information available online did not list the individuals' names, contact details and responsibilities as per the complainant's request.
20. In making his decision the Commissioner also noted that the information provided to the complainant only listed one manager for each of the jobcentres listed. The Commissioner considered this unlikely given the size of some London jobcentres and the work they are required to carry out, and contacted the DWP for clarification.
21. The DWP acknowledged that the information available online was held, but stated that it did not consider this or the supporting information

¹ <https://www.gov.uk/government/publications/dwp-roles-and-salaries-september-2014>

about the names, contact details and responsibilities would come within the scope of the complainant's request.

22. The justification for this was that it considered the complainant was only interested in staff working for Job Centre Plus, and not the DWP as a whole. This was based on one reference from the complainant in his request for an internal review that stated (Commissioner's emphasis) "*These are not all the managerial positions that exist within the DWP in London (i.e. relating to **London JCs** [jobcentres]).*" The DWP did not check with the complainant to see if this assumption was correct.
23. The Commissioner disagrees with the DWP that this mention alone is sufficient to alter the scope of the complainant's request. While he acknowledges that the complainant included examples of managerial posts he considers would fall within the request, the wording of the request itself is for "*DWP-managers ... in/for London*" and is not limited to jobcentre staff. The Commissioner sought the complainant's view and he confirmed that the scope of his request was for DWP staff, as laid out in his request, and that this sentence was not designed to limit the request only to London jobcentre staff.
24. The DWP also argued that a number of the managers within the table would not be in public facing roles, and so as per the Commissioner's guidance their personal data would not be disclosed to the public. The Commissioner acknowledges that such a situation might be likely, but this was not reason alone for the DWP not to confirm that the information is held or account for it in its response to the request.
25. The Commissioner considers there is sufficient evidence to show that further information relevant to the complainant's request is held by the DWP. He requires the DWP to issue a new response with the scope encompassing all DWP managers in and with responsibilities for London.

Other matters

26. The Commissioner also wishes to highlight the length of time the DWP took to carry out its internal review. Whilst there is no statutory time limit for completing internal reviews the section 45 code of practices asks that public authorities do so in a "reasonable" length of time. The DWP took 73 working days to complete its internal review, which the Commissioner considers to be beyond what was reasonable under the circumstances. The Commissioner asks that the DWP takes steps to avoid similar delays in future.

Right of appeal

27. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

28. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Alexander Ganotis
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