

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 July 2012

Public Authority: Department for Work and Pensions
Address: 2nd Floor
The Adelphi
11 John Adam Street
London
WC2N 6HT

Decision (including any steps ordered)

1. The complainant requested information about groups of representatives that were referred to as having been consulted in a handbook issued by the Department for Work and Pensions (the 'DWP' or 'Department').
2. Where the complainant asked whether the groups had approved a named DWP report, the public authority did not accept the complainant's submission as a valid request for information.
3. The Commissioner finds that the request is valid for the purposes of the FOIA.
4. The Commissioner requires no remedial steps to be taken in this case.

Request and response

5. On 17 November 2011, the complainant wrote to the Department and requested information in the following terms:

"The Training & Development Revised WCA Handbook, ESA (LCW/LCWRA) Amendment Regulations 2011 (MED SAAR2011HB~001 Version: 3 Final), 14th April 2011 refers to number of expert groups:

- Working Group
- Employer groups
- Stake holder groups

- *Specialist disability groups*
- *Technical experts*
- *Review group*
- *Scrutiny group*

Who specifically were these groups, who were the members of each, (name, job title, employer, credentials, qualifications) and have they all approved the final version of the report unreservedly?"

6. On 17 December 2011 the complainant wrote to the Department to ask for an internal review, arguing that there had been a breach of the statutory time limit having yet to receive a response (section 10(1)).
7. On 19 December 2011 the Department issued a response to the complainant's request. The Department said that information relating to the expert groups was already available in the public domain (section 21). The Department refused to disclose the names, qualifications and credentials of those who represented the groups, arguing that the information constitutes personal data (section 40).
8. On 22 December the complainant wrote to the Department and requested an internal review arguing that part of the information request had been neglected, namely, where he asks:

"[...] have they [the representative groups] all approved the final version of the report unreservedly?"
9. On 18 January 2012 the Department responded to the first request for an internal review dated 17 December 2011. The Department argued that it had issued a response to the complainant on 15 December 2011; however this response, sent as an email to the complainant's inbox, was returned as undeliverable. It was merely re-sent on 19 December 2011. The Department therefore upheld the time taken for compliance with the request (section 10(1)).
10. On the same day the complainant wrote to the Department to ask for another internal review. He argued that the internal review requested on 22 December 2011 was outstanding and overdue.
11. On 07 February 2012 the Department responded to the request for an internal review dated 22 December 2011. The Department argued that the part of the request that asks 'whether the groups approved the final version of the report unreservedly' did not constitute a valid request under the FOIA. The Department explained that it was not obliged to provide explanations or confirm whether the complainant's assumptions are correct or not. It therefore upheld its initial refusal notice.

12. On 15 February 2012, the Department wrote to the complainant in response to the request for another internal review dated 18 January 2012. It upheld its internal review dated 07 February 2012.

Scope of the case

13. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
14. The scope of this case as agreed with the complainant will look to determine whether the request for information, where the complainant asked 'whether the groups approved the final version of the report unreservedly', is a valid request under the FOIA.

Reasons for decision

15. Section 8(1) provides that –

"In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested."*

16. To this extent the Department conceded during the course of the investigation that the request was valid:

"We accept that the applicant provided his name and a valid email address and that he also described the information requested (notwithstanding it was not held). We therefore accept that his request was valid for the purposes of section 8(1)."

17. The Department argued in its initial responses to the complainant that the request was not valid as it required an explanation to be provided in order to "*confirm an assumption*" of the complainant's – that those groups had not endorsed the DWP report.
18. Anyone can request copies of information which a public authority already holds in a recorded form, but the FOIA does not require the Department to provide opinions or explanations, generate answers to questions, or create or obtain information it does not hold.

19. The Department led review into the Work Capability Assessment engaged with medical experts, stakeholders and employers in expert case analysis and group descriptor analysis, providing an opportunity for them to contribute to the report. Therefore, it is clear that the complainant's 'assumption' could be answered through the provision of recorded information, if held by the Department.

20. The Department now concedes that the request was valid for the purposes of the FOIA. The Department explained to the Commissioner that, in actual fact, it meant that as no information was held in a recorded format it was not obliged to provide an explanation.

"We would like to clarify that it is not recorded whether the participants listed in Annex B of the Internal Review of the Work Capability Assessment approved unreservedly the final version of the report."

21. The Department extends its apologies to the complainant for any confusion caused.

Other matters

22. In failing to confirm that, in actual fact, no information was held, the Department breached section 1(1)(a). It follows then that the Department also breached section 10(1) in failing to provide a response compliant with section 1(1)(a) within 20 working days.

Right of appeal

23. 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 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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

Pamela Clements
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Information Commissioner's Office
Wycliffe House
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