

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 May 2013

Public Authority: Department for Work and Pensions

Address: Caxton House
6-12 Tothill Street
London, SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested information relating to adjustments for people attending the Coalville Job Centre Plus building.
2. The Commissioner's decision is that Department for Work and Pensions (DWP) has breached section 10(1) of the FOIA.
3. The Commissioner therefore reminds the DWP of its obligations under the FOIA but does not require the DWP to take any steps as a result of this decision notice.

Request and response

4. On 29 October 2012, the complainant wrote to DWP and requested information in the following terms:

"Please provide me with the relevant data for the Coalville JCP building (e.g. an Equality Impact Assessment, Access Audit, etc) to show that the DWP proactively considered its duties when insisting that people with illnesses attend said building for meetings such as WFI. If not such data exists then please tell me."
5. The DWP responded on 30 October 2012. However it had not identified the FOI request.
6. In a further letter to the DWP on 26 November 2012 the complainant stated:

Mr R ignored my request for information that should have been dealt with under the Freedom of Information Act 2000. Should you be foolish enough to attempt to claim that my letter did not constitute a FOIA request I refer you to the DWP own guidance on FOIA that states "The request may be for any information that the department holds and may be received in any part of the department, via post, email, fax or by hand."

a. Request made to Mr R – "Please provide me with the relevant data for the Coalville JCP building (e.g. an Equality Impact Assessment, Access Audit, etc) to show that the DWP proactively considered its duties when insisting that people with illnesses attend said building for meetings such as WFI. If not such data exists then please tell me."

7. DWP responded on 19 December 2012 and stated that it did not treat the complainant's letter of 29 October 2012 as an FOI request. It did not advise whether it now intended to do so.
8. As the DWP had not dealt with the request under FOI no internal review was carried out.

Scope of the case

9. The complainant contacted the Commissioner on 15 January 2013 to complain about the way his request for information had been handled.
10. The Commissioner considers the scope of this case to be to determine if the DWP has dealt with the complainant's request in accordance with the FOIA.

Reasons for decision

Section 1 – General right of access

11. Section 1 of FOIA provides that:

"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 the information of the description specified in the request, and
(b) if that is the case, to have that information communicated to him"*

Section 10 – Time for compliance

12. Section 10(1) of FOIA provides that:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

13. The complainant's original request was made on 29 October 2012. DWP advised the Commissioner that this letter was responded to as 'normal course of business'.
14. The Commissioner acknowledges that the letter of 29 October 2012 contained a number of complaints and questions, and although the complainant did not refer specifically to the FOIA for that particular point in his letter it was clearly a request for information.
15. DWP stated that the complainant has made requests in the past and is well aware of how to make an FOI request to the DWP.
16. The Commissioner notes that the complainant's second letter of 26 November 2012 clearly refers to the FOIA in relation to that point in his letter.
17. It is the Commissioner's view that regardless of whether or not an individual has made previous FOIA requests a public authority should have measures in place to ensure requests are identified appropriately. As indicated above the complainant's letter fulfilled all the criteria to be a valid FOIA request.
18. In addition, the Commissioner notes that DWP was given a second opportunity to respond to the request when the complainant wrote to them on 26 November 2012. The DWP again did not process this request in accordance with the FOIA.
19. Following intervention by the Commissioner, DWP responded to the request on 9 April 2013 apologising for the delay. It advised the complainant that as Employment Support Allowance was being introduced there was a National review of its impact both on its customers and its staff. It reviewed these within the local Jobcentres; and each site undertook a Jobcentre Plus Rollout Risk Assessment (JPRRA) prior to the launch of Employment Support Allowance.
20. It provided the complainant with the latest JPRRA which was conducted on 12 November 2012. This is due for a 6 month review in May.
21. The Commissioner finds the DWP in breach of section 10(1) of the FOIA and has therefore recorded this accordingly.

Right of appeal

22. 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

23. 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.
24. 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
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**