

Freedom of Information Act 2000 (the Act)

Decision notice

Date: 30 October 2018

Public Authority: The Department for Work and Pensions
Address: 4th Floor
Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested information regarding the names of members of a particular team and emails sent or received by this team.
2. The Commissioner's decision is that the Department for Work and Pensions (DWP) breached section 10(1) as it did not comply with section 1(1)(a) within the statutory time frame of twenty working days. DWP also breached section 17 of the Act as it did not inform the complainant that it was withholding information and did not cite the relevant exemption within the statutory time frame.
3. As DWP did issue a revised response, albeit outside the statutory time for compliance, the Commissioner does not require any remedial steps to be taken in respect of this request.

Request and response

4. On 31 March 2017, the complainant wrote to DWP and requested information in the following terms:

The Journal of Epidemiology and Community Health has published a study titled "First, do no harm': are disability assessments associated with adverse trends in mental health? A longitudinal ecological study" B.Barr et al. November 2015. and concluded WCAs kill 200 people every year.

Please provide copies of any Emails which mention this study, the Journal of Epidemiology and Community Health or any of the authors that were sent or received by anybody in the Medical Advisor Team in 2015/16.

Please state the names of the current members of the Medical Advisor Team and anybody else who has held this or effectively the same position since 2012.

If your search of the Medical Advisor Team members Email accounts for the period 2015/16 establishes that the information I have requested is not held please provide a believable reason."

5. DWP responded on 2 May 2017 and confirmed that it was aggregating the request with others made since 14 January 2017 and refused to comply with the request, relying on section 12. DWP did not cite a subsection.
6. The complainant requested an internal review on 14 May 2017 and disputed that the requests could be aggregated.
7. DWP provided the outcome of the internal review on 12 June 2017, upholding its reliance on section 12.

Scope of the case

8. The complainant contacted the Commissioner on 17 May 2017 to complaint about DWP's request handling in general. The Commissioner confirmed that under section 50, she could only consider specific requests for investigation and asked the complainant to set out which requests he wished to proceed to investigation. On 28 September 2017,

the complainant confirmed that he wished to complain about the request made on 31 March 2017.

9. During the course of the Commissioner's investigation, DWP amended its position and on 10 September 2018 provided the complainant with a fresh response under the Act. DWP confirmed that it held no information in relation to emails relating to the named study and refused to provide the names of the Medical Advisor Team, relying on section 40(2) of the Act¹.
10. The complainant confirmed that he wished to receive a formal decision notice regarding his complaint but did not dispute DWP's amended position. Therefore the Commissioner has considered DWP's handling of this request in respect of the procedural sections of the Act.

Reasons for decision

Section 1: Duty to confirm or deny

Section 10: Time for compliance

11. Section 1(1)(a) of the Act states:

"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..."

12. Section 10(1) of the Act states:

"Subject to subsections (2) and (3), 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. In its original response dated 2 May 2017 DWP did not confirm whether or not the information was held. It simply stated that it was refusing to comply with the request and relied on section 12. DWP did not clarify this in its internal review dated 12 June 2017.
 14. The Commissioner acknowledges that during the course of her investigation, DWP provided a fresh response which complied with the
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¹ Third party personal data

obligations set out in section 1(1)(a), namely to confirm or deny in writing whether the requested information is held.

15. However, since this fresh response was obviously issued outside the 20 day time for compliance, the Commissioner finds that DWP breached section 1(1)(a) and section 10(1) of the Act.

Section 17: Refusal notice

16. Section 17(1) of the Act states:

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –

- (a) states that fact,*
- (b) specifies the exemption in question, and*
- (c) states (if that would not otherwise be apparent) why the exemption applies".*

17. As set out above, DWP initially relied on section 12 to refuse the request. It then changed its position and issued a fresh refusal notice citing section 40(2). Since this refusal notice was issued outside of the statutory time period, the Commissioner finds that DWP breached section 17(1) of the Act.

Right of appeal

18. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

19. 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.
20. 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

Sarah O’Cathain
Senior Case Officer
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF