

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 July 2024

Public Authority: Department for Work and Pensions

Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested information on the Department for Work and Pensions' (DWP) machine learning Universal Credit anti-fraud models. DWP disclosed some information but withheld the remainder under section 31(1)(a), prevention or detection of crime.
2. The Commissioner's decision is that DWP is entitled to rely on section 31(1)(a) to withhold the remaining information.
3. The Commissioner finds, however, that DWP breached section 10(1) by disclosing further information outside of the statutory timeframe.
4. The Commissioner does not require DWP to take further steps.

Request and response

5. On 10 August 2023, the complainant wrote to DWP and requested information in the following terms:

"I am writing to request the following information under the FOI Act 2000 relating to the DWP's machine learning UC models, specifically

- A copy of the Data Protection Impact Assessment and Equality Impact Assessment for the UC¹ anti-fraud models developed to target F&E² in relation to people living together, self-employment, capital and housing
 - o N.b – these were mentioned on page 46 of the NAO's³ most recent set of DWP accounts
 - A list of any protected characteristics the DWP has conducted fairness or bias assessments for in relation to the models
 - What coding language is the model written in"
6. DWP provided its response on 6 October 2023 having previously issued an interim response extending the time for compliance in order to consider the balance of the public interest. DWP provided redacted versions of the requested Data Protection Impact Assessments (DPIAs) and confirmed the characteristics used in the fairness assessments. DWP relied on section 31(1)(a) to withhold the Equality Impact Assessment (EqIA) and to redact the DPIAs.
7. DWP upheld this position at internal review.

Scope of the case

8. The complainant contacted the Commissioner on 11 January 2024 to complain about the way their request for information had been handled, specifically DWP's use of section 31(1)(a).
9. During the course of the investigation, following discussions with the Commissioner, DWP disclosed redacted versions of the EqIA and less redacted versions of the DPIAs.
10. The Commissioner therefore considers that the scope of this investigation is to determine whether DWP is entitled to rely on section 31(1)(a) to withhold the remaining information.

¹ Universal Credit

² Fraud and Error

³ National Audit Office

Reasons for decision

Section 31(1)(a): Prevention or detection of crime

11. Section 31(1)(a) of FOIA states:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under the Act would, or would be likely to, prejudice –

(a) the prevention or detection of crime”

12. During the investigation, the Commissioner’s officer met with DWP to undertake a line by line review of a representative sample of the DPIAs with detailed discussions regarding the redactions within them. DWP and the Commissioner’s officer also discussed the provision of redacted versions of the EqIA and why the coding language should be withheld.
13. Following this discussion, DWP provided the Commissioner with access to the EqIA marked up with the intended redactions. Following further discussions, DWP provided the complainant with the redacted EqIA and updated redacted DPIAs.
14. The Commissioner has based his decision on these detailed discussions and the viewings of the information. He has also taken into account the explanation provided in a previous case IC-176118-M6Q9⁴.
15. The Commissioner is satisfied that section 31(1)(a) is engaged and the prejudice threshold of ‘would’ has been met.
16. Section 31(1)(a) is a qualified exemption. By virtue of section 2(2)(b), DWP can only rely on section 31(1)(a) as a basis for withholding the information if the public interest in doing so outweighs the public interest in disclosure.
17. The Commissioner acknowledges the public interest in understanding how DWP uses personal data and the potentially devastating impact on individual claimants when an incorrect suspicion of fraud leads to the suspension of benefits.

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4024689/ic-176118-m6q9.pdf>

18. However, the Commissioner considers that, in the circumstances of this case, there is a strong public interest in ensuring that DWP is able to prevent and detect fraud within its systems.
19. Whilst the Commissioner accepts that there is a public interest in the disclosure of how DWP uses personal data, he considers that the public interest in maintaining the integrity of the systems holding this data outweighs this.
20. The Commissioner therefore finds that DWP is entitled to rely on section 31(1)(a) to withhold the disputed information.

Procedural matters

Section 10(1): Statutory time for compliance

21. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled, subject to exemptions;
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have the information communicated to him.
22. Section 10(1) of FOIA provides that public authorities must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
23. As DWP provided the complainant with some of the requested information during the Commissioner's investigation outside of the statutory timeframe of 20 working days, DWP breached section 10(1) of FOIA.

Other matters

24. The Commissioner reminds DWP of the importance of considering the specific information being withheld rather than applying exemptions to entire documents containing some information that is exempt.

Right of appeal

25. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

26. 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.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Victoria Parkinson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF