

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 17 October 2011

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

#### Decision (including any steps ordered)

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1. The complainant has requested statistical information from the Department for Work and Pensions ("DWP") on pass/fail rates of examinations assessing Employment Support Allowance claims at York Place centre in Edinburgh. DWP explained that to comply with the request would exceed the £600 cost limit and therefore the appropriate cost limit (section 12) of the FOIA applied.
2. The Commissioner's decision is that DWP has correctly applied section 12 in this case.

#### Request and response

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3. On 23 January 2011 the complainant wrote to the DWP and requested information in the following terms:

*"I would like to obtain statistical information of the pass and fail rate of Work Capacity Assessment medical examinations undertaken by Atos at the York Place centre in Edinburgh for those claiming Employment Support Allowance".*

4. The DWP responded on 21 February 2011. It stated that information on the number of medical assessments undertaken at Medical Examination Centre's ("MEC") were held but comparisons between the number of cases rejected or supported could not be provided as Atos Healthcare were not made aware by Jobcentre Plus of the outcomes of customer's claims.

5. DWP stated to provide this information would exceed the appropriate cost limit of £600.
6. Following an internal review the DWP wrote to the complainant on 12 April 2011. It stated that information was held centrally on the number of medical assessments undertaken but not the outcomes of these assessments. DWP went on to further explain that decisions on benefit entitlement are made by DWP Decision Makers in Jobcentre Plus not by Atos Healthcare professionals based at MEC's.
7. Therefore, DWP had calculated that to identify and retrieve the outcomes of Work Capability Assessments ("WCA") for a specific MEC would exceed the appropriate limit of £600 and therefore under section 12 of the FOIA DWP was not obliged to comply with the request.

### **Scope of the case**

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8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Information Commissioner ("the Commissioner") to consider whether it would exceed the appropriate cost limit to comply with his request and pointed the Commissioner to the statistical information already published regularly by the DWP on this issue.
9. The Commissioner considers the scope of the investigation to be whether the DWP correctly applied the appropriate cost limit to the requested information.

### **Background**

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10. The process by which Employment Support Allowance ("ESA") claims are assessed is relevant to understanding the cost analysis provided by the DWP.
11. Decision Makers in Jobcentre Plus are responsible for determining benefit entitlements. Atos Healthcare provides medical evidence to enable the Decision Makers to make these decisions. DWP has outsourced this aspect of its work to Atos Healthcare. Atos Healthcare, whilst not subject to the FOIA, is contractually obliged to provide DWP with information when DWP needs it to respond to FOIA requests.
12. Information is held by Atos Healthcare on medical assessments carried out by Healthcare Providers at individual MEC and Jobcentre Plus holds information relating to the outcome of a customer's benefit claim.

## Reasons for decision

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13. Section 12(1) of the FOIA states that:

*"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit"*

14. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations") sets the appropriate limit at £600 for this public authority. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 24 hours work in accordance with the appropriate limit of £600. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:

- i. determining whether it holds the information;
- ii. locating the information, or a document which may contain the information;
- iii. retrieving the information, or a document which may contain the information; and
- iv. extracting the information from a document containing it.

15. To determine whether DWP applied section 12 of the FOIA correctly the Commissioner has considered the submissions provided by DWP to the complainant as well as the submissions it provided as part of this investigation.

16. DWP has explained to the Commissioner that the requested information is not routinely collated by MEC. Whilst statistics are published at a national level on ESA claimants moving on and off the benefit, no statistics are held on pass/fail rates based on which MEC conducted the assessment. DWP has therefore explained that to produce the requested information would require analysis of both Atos Healthcare and Jobcentre Plus datasets to produce the information.

17. In order to estimate the cost of dealing with the request, DWP provided costings based on a sampling exercise involving 5 cases. The first step in producing the requested information would be the drafting and transmission of an email from the Central Management of Medical Services Team within DWP to Atos Healthcare to request data of medical assessments carried out at York Place. DWP explained this was estimated as taking 3 minutes.

18. Once Atos Healthcare had received the request for data they then had to request relevant National Insurance numbers from the Management Information team, collate this information and send the information back to CMMS. This was estimated as taking 20 minutes. CMMS then analysed the email containing data of medical assessments carried out at York Place and sent an email to Jobcentre Plus, this took 10 minutes.
19. Jobcentre Plus read the email from CMMS and allocated it to a benefit expert with an explanation. The benefit expert read the email and accessed three separate systems to confirm the WCA outcome, check the decision made and ensure the correct decision input. These actions and the action of recording the outcome took 9 minutes per case and 1 minute per case to collate the information.
20. Whilst this would mean for even 100 cases the costs would exceed the appropriate limit, DWP has explained that in the period January 2011 to March 2011 there were 1694 ESA WCA assessments carried out at York Place. York Place MEC started conducting WCAs in late 2009 and the request for information was dated 24 January 2011 so it is likely the request covers a period of more than 12 months. Given that in one quarter the number of assessments was 1694 if this was extrapolated to one year the costs would significantly exceed the costs limits.
21. In this case the Commissioner is satisfied that to comply with this request DWP would be required to combine information from Atos Healthcare and Jobcentre Plus. Given the number of WCAs conducted in one quarter and the request covering a period of at least 12 months, even if DWP were able to reduce the time taken to conduct some of these activities in pulling together information, the Commissioner is satisfied it would exceed the £600 cost limit to comply with the request and therefore section 12 was correctly engaged in this case.
22. Having considered the public authority's response and the steps it took to try and provide advice and assistance to the complainant the Commissioner is satisfied that it has discharged its duties under section 16(1) and can see no further advice or assistance DWP can provide to the complainant.

## Right of appeal

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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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://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**  
**Group Manager, Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**