

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 December 2012

Public Authority: Department for Work and Pensions
Address: Caxton House
Tothill Street
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested;

Information on the cost/benefit and risk analysis and other documents relating to the Department for Work and Pensions' decision to outsource the Work Capability Assessment (WCA)¹ service.

2. The Commissioner's decision is that Department for Work and Pensions (DWP) has breached section 10 of the FOIA by failing to respond to the complainant's request promptly and in any event, within 20 working days.
3. The Commissioner does not require the Department for Work and Pensions (DWP) to take any steps to ensure compliance with the legislation as it has now responded to the complainant's request.

¹ The Work Capability Assessment (WCA) was introduced in October 2008. It assesses an individual's entitlement to Employment and Support Allowance (ESA), a benefit that provides support to people due to disability or ill-health.

Request and response

4. On 7 March 2012 the complainant wrote to the Department for Work and Pensions (DWP) and requested information in the following terms:

'At some stage in the past, the decision was made to outsource the WCA service, rather than place it somewhere within the public sector (logically the NHS). As regards this decision please provide:

1) The cost/benefit analysis

2) The risk analysis

3) Other documents that were used in the final decision that outsourcing was the only/best way forward'.

5. In the absence of a response within 20 working days, the complainant wrote to the DWP again on 5 April and 30 May 2012.
6. The DWP eventually responded on 11 September 2012. It apologised for the significant delay and provided the complainant with some background information in relation to the information requested.
7. On 12 September 2012 the complainant requested an internal review. He noted the background details provided but said he was not satisfied that the DWP had provided him with the actual information he had requested.
8. Following an internal review the DWP wrote to the complainant on 30 October 2012. It reiterated the background details provided earlier and clarified that the actual information requested was not held as no outsourcing had taken place.

Scope of the case

9. The complainant contacted the Commissioner on 30 July and 1 October 2012 to complain about the way his request for information had been handled. In particular, he complained that it had taken the DWP in excess of 6 months (instead of 20 working days) to respond to his original request.

Reasons for decision

Section 10 of the FOIA

10. Section 10 of the FOIA provide that a public authority is obliged to respond to an information request promptly and in any event not later than 20 working days of receipt.
11. In this case the DWP took in excess of 6 months to respond to the complainant's request and in so doing breached 10 of the FOIA.

Right of appeal

12. 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

13. 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.
14. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF