

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 May 2013

Public Authority: Department of Work and Pensions ("DWP")
Address: Caxton House
6-12 Tothill Street
London
SW1P 3GE

Decision (including any steps)

1. The complainant has requested information from the DWP concerning the criteria to be used in Work Capability Assessments and the DWP's consideration of factors affecting this. The DWP provided a late response to the request.
2. The Commissioner's decision is that the DWP has failed to provide a response to the request within the statutory time frame of 20 working days. He upholds the complaint but requires no further action to be taken as a response has been provided to the complainant.

Request and response

3. On 21 November 2012, the complainant wrote to the public authority and requested information in the following terms:

"What information is available to show that:

WP is alert to such concerns and continually monitors the situation to ensure its WCA assumptions are valid?

DWP can legitimately ignore these concerns as they are unique to the transport sector and there is not a similar 'shortfall' in the job market placing less than fully able people at a disadvantage?

DWP has updated the research on which it relies since 2009? "

4. On 21 December 2012 the public authority acknowledged receipt of the request, noted the delay in response and provided an apology. No indication was given by the public authority as to when a response would be received.
5. On 5 January 2013 the complainant submitted a request for an internal review to the public authority.
6. On 11 January 2013 the complainant received a response to his request for an internal review. The complaint in respect of the delay experienced was upheld by the reviewing officer of the DWP and a response was given to the matters raised in the request for information dated 21 November 2012.

Scope of the case

7. The complainant wrote to the Information Commissioner on 27 February 2013 stating he was not satisfied with the response to his request for information in that the response had not been dealt with within the required timescales under section 10 of the FOIA.

Reasons for decision

8. Section 1(1) of FOIA requires a public authority in receipt of a request for information to confirm whether it holds the requested information, and, if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
9. The Information Commissioner considered whether the public authority responded to the request of 21 November 2012 in line with the provisions of the FOIA.
10. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

Right of appeal

11. 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

12. 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.
13. 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
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