

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 January 2014

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

Decision (including any steps ordered)

1. The complainant made a freedom of information request to the Department for Work and Pensions (DWP) for budgetary information for a 6 month period. The DWP responded to the request by explaining that it did not hold the requested information. The Commissioner has investigated the complaint and found that the requested information was not held at the time of the request.
2. The Commissioner's decision is that the DWP dealt with the request in accordance with FOIA and he requires no steps to be taken.

Request and response

3. The complainant made a freedom of information request to the DWP which was received on 2 August 2013 and which read as follows:
"please supply dwp interim budget v actual comparison with variances and explanations in respect of the 6 months to 30.9.13 when available."
4. The DWP responded to the request on 12 August 2013 when it confirmed that the requested information was not held.
5. The complainant subsequently asked the DWP to carry out an internal review and it presented its findings on 19 August 2013 when it upheld the original response that the requested information was not held.

However, it also added that the DWP did in fact monitor actual expenditure on a monthly basis as part of its management accounting process. However it said that it was estimated that producing such a report with the detailed explanatory information needed would "exceed the cost threshold specified in Regulations".

Scope of the case

6. On 20 August 2013 the complainant contacted the Commissioner to complain about the DWP's handling of his request.
7. The Commissioner considers the scope of his investigation to be to consider whether the DWP holds the information requested by the complainant.

Reasons for decision

8. Section 1 of FOIA provides that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to him.
9. In this case the DWP's basis for claiming that the requested information is not held is straightforward; the complainant has asked for future information. The DWP explained that the request was made on 2 August 2013 and asked for financial information relating to a 6 month period ending on a future date, i.e. 30 September 2013. The DWP has said that it is clear that the relevant period had not at that point actually expired so the information sought was not held in a recorded format.
10. Section 1(4) of FOIA makes it clear that when considering whether requested information is held, the relevant date is the date on which the request was received. If the information is not held when the request is received, even if it may be compiled at a later date, a public authority can inform the applicant that the information is not held.
11. It is apparent that the information was not held at the time of the request and therefore the Commissioner has decided that the DWP acted in accordance with FOIA in its handling of the complainant's request.

12. On a final point, the Commissioner notes that at the internal review stage the DWP referred to the fact that it monitored expenditure as part of its management accounting functions but that the cost of producing any analysis of budget underspend or overspend would exceed the appropriate limit. It appears that this reference to the costs of producing information may well have confused matters and the Commissioner had asked the DWP to clarify this part of its response.
13. The DWP said that this explanation was included in a bid to be helpful and that when it referred to the costs of producing information on budget underspend or overspend this was a theoretical consideration of the position if the information had been held. The DWP said that it was looking beyond what information was held on the day of the request, that is to say it wanted to make it clear that even if the complainant had asked for information which was held, the cost of producing it would likely exceed the appropriate limit.
14. The Commissioner is satisfied with the explanation given and accepts that the information is not held.

Right of appeal

15. 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: GRC@hmcts.gsi.gov.uk

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

16. 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.
17. 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
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