

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 January 2014

Public Authority: Department for Work and Pensions (DWP)

Address: Caxton House
Tothill St
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested telephone numbers for all DWP Contact Centres in England and Benefit centre for Worcester & Wolverhampton Jobcentre Plus Direct Line numbers. The DWP refused to provide the requested information under section 36(2)(c) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner's decision is that the DWP has correctly applied section 36(2)(c) FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 24 July 2013 the complainant requested information of the following description:

"I require telephone numbers for all DWP Call Centres in England and Benefit centre for Worcester & Wolverhampton Jobcentre Plus Direct Line numbers."
5. On 19 August 2013 the DWP responded. It refused to provide the information requested under section 36(2)(c) FOIA.
6. The complainant requested an internal review. The DWP sent the outcome of its internal review on 28 August 2013. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 3 September 2013 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether the DWP was correct to apply section 36(2)(c) to the withheld information.

Reasons for decision

9. Section 36 FOIA provides that,

"Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act-

(2)(b) would, or would be likely to, inhibit-

- i. the free and frank provision of advice, or
- ii. the free and frank exchange of views for the purposes of deliberation, or

(2)(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

10. The DWP has applied section 36(2)(c) FOIA to the withheld information. In determining whether section 36(2)(c) was correctly engaged, the Commissioner is required to consider the qualified person's opinion as well as the reasoning which informed the opinion. Therefore in order to establish that the exemption has been applied correctly the Commissioner must:

- Establish that an opinion was given;
- Ascertain who was the qualified person or persons;
- Ascertain when the opinion was given; and
- Consider whether the opinion was reasonable.

11. DWP has explained that, the DWP Minister for Pensions Steve Webb MP, is the qualified person in this case and his opinion was obtained on 12 August 2013. The DWP has provided the Commissioner with a copy of the qualified person's opinion as well as the submissions which were put to the qualified person to enable the opinion to be reached.
12. The following submissions were put to the qualified person in relation to the application of section 36(2)(c):
 - the details of the request;
 - the details of previous cases where the exemption had been applied for the same reason;
 - the potential impact in terms of Business Management, Customer Service and Finances;
 - the arguments both for and against disclosure;
 - the possible options for the Minister to agree;
 - details of the previous ICO Decision Notice (DN) from 2010 under reference FS50363838.
13. The qualified person's response agrees that section 36(2)(b)(c) is engaged. The qualified person's opinion is that the prejudice in this case would be likely to occur.
14. The withheld information is DWP geographic telephone numbers. The DWP has explained that there is no central record of these numbers and the scope of the request would cover nearly 1,000 different direct telephone numbers and extension numbers. It said the DWP takes over 64 million calls per year. It has explained that it has an 0800 number for calls to claim benefit and an 0845 number for other enquiries that can be dealt with more quickly. It said that non-geographic numbers are used to enable the DWP to be able to handle such a large number of calls effectively as it ensures customers are directed to the right agent with the appropriate skills to deal with their enquiry. It also allows customers to be dealt with more quickly by the next available agent across its network, regardless of where the customer is calling from. It enables the DWP to move work around depending on demand and capacity and to respond to emergency situations. Disclosure would therefore have a detrimental impact on the DWPs level of customer service. It has said it would also have a financial impact due to the time and cost of answering inappropriate calls and having to redirect them to another agent.
15. The Commissioner is of the view that the opinion of the qualified person is a reasonable one and that it has been reasonably arrived at. He therefore finds that section 36(2)(b)(c) was correctly engaged.

16. As the Commissioner has decided that the exemption is engaged, he has gone on to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In his approach to the competing public interest arguments in this case, the Commissioner has drawn heavily upon the Information Tribunal's Decision in the case of Guardian Newspapers Limited and Heather Brooke v Information Commissioner and BBC (the Brooke case)¹.
17. The Commissioner notes, and adopts in particular, the Tribunal's conclusions that, having accepted the reasonableness of the qualified person's opinion that disclosure of the information would, or would be likely, to have the stated detrimental effect, the Commissioner must give weight to that opinion as an important piece of evidence in his assessment of the balance of the public interest. However, in order to form the balancing judgment required by section 2(2)(b), the Commissioner is entitled, and will need, to form his own view as to the severity of, and the extent and frequency with which, any such detrimental effect might occur. Applying this approach to the present case, the Commissioner recognises that there are public interest arguments which pull in competing directions, and he gives due weight to the qualified person's reasonable opinion that disclosure would, or would be likely to inhibit the free and frank provision of advice.

Public interest arguments in favour of disclosing the requested information

18. Disclosure would ensure that the general public have access to all the telephone numbers needed to access the DWP's services (however, these are already available on the DWP website via the non-geographic numbers). Greater transparency is also likely to improve government accountability, which in itself is likely to strengthen the democratic process. The FOIA is intended to improve and increase access by the public to information so that trust and participation in the democratic process is improved.

Public interest arguments in favour of maintaining the exemption

19. The DWP said that if customers use geographical numbers and reach the incorrect staff member to deal with their enquiry this leads to wasted time and adding to the DWP's high workload. The increase in workload

¹ EA/2006/0011; EA/2006/0013

could potentially be through additional work in redirecting incorrect calls, multiple hand offs between different departments and delays in responding because of no virtuality. It said that it would not be in the public interest to impair the efficiency of the DWP's workload in this way.

Balance of the public interest arguments

20. The Commissioner considers there is a public interest in the government operating in an open and accountable manner. He considers that greater transparency leads to a better public understanding and strengthens the democratic process.
21. The Commissioner does however consider that there is a strong public interest in not hindering the efficiency of the DWP in handling a high and demanding workload. The DWP does have a Freephone number for the purpose of claiming benefit and a non-geographical number for other enquiries. It is required to operate in this way to be able to efficiently manage the high level of calls it receives.
22. On balance the Commissioner considers that in this case, the public interest arguments in favour of disclosure are outweighed by the public interest arguments in favour of maintaining the exemption. Section 36(2)(c) FOIA was therefore correctly applied in this case.
23. In support of his decision in this case the Commissioner would also clarify that he has issued previous decision notices about the DWP on this issue in which he has upheld its application of section 36.²

² http://www.ico.org.uk/~media/documents/decisionnotices/2011/fs_50363838.ashx

http://www.ico.org.uk/~media/documents/decisionnotices/2010/fs_50287131.ashx

Right of appeal

24. 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

25. 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.
26. 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
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