

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2014

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

Decision (including any steps ordered)

1. The complainant has requested confirmation from the Department for Work and Pensions ("DWP") that a particular model of cassette recorder complies with DWP policy. He wishes to clarify that the cassette recorder is acceptable for use in a Work Capability Assessment ("WCA") or a Personal Independent Payment ("PIP") Assessment. DWP has explained that it does not hold a list of approved equipment.
2. The Commissioner's decision is that DWP does not hold this information. No further steps are required.

Request and response

3. On 18 August 2013, with regard to an Omega Reporter 20 Voice Activated Cassette Recorder, the complainant wrote to DWP and requested information in the following terms:

"Under currently recorded DWP policy: is the equipment I have described and specified above (two Omega reporter 20s) acceptable as equipment to be used to record a WCA or PIP assessment by a claimant."

4. The complainant clarified that he was not interested in 'lists of approved equipment' but wanted to know whether the equipment complies with current DWP policy.
5. DWP provided a response to the request on 9 September 2013. It informed the complainant that it does not keep lists of approved equipment. It explained that it does not hold recorded information showing the relevant equipment as being approved or not.
6. The complainant requested an internal review on the same date. The DWP sent him the outcome of its internal review on 16 September 2013. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 8 October 2013 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of this case is to determine whether DWP is correct when it says that it does not hold the requested information.

Reasons for decision

9. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether (a) it holds the information and if so, (b) to have that information communicated to him.
10. The Commissioner has sought to determine whether, on the balance of probabilities, DWP held any information relevant to the request at the time the request was made. In coming to his decision, the Commissioner has applied the civil test of the balance of probabilities. This is in line with the approach taken by the Information Rights Tribunal in past cases when it has considered the issue of whether information is held.
11. DWP has explained that it does not hold information regarding the Omega Reporter 20 Voice Activated Cassette Recorder because it does not dictate any particular kind of recording equipment for claimants to use.

12. DWP's policy is that the acceptable formats for such recording are restricted to CD and audio-cassette only and that the equipment used should be capable of providing two identical and complete copies of the recording at the end of the assessment. However it does not specify the type or make of equipment which can be used.
13. DWP has explained that the guidance issued to claimants who are called to face-to-face assessments as part of the WCA process does clarify that claimants wishing to use their own equipment to record the assessment should contact Atos Healthcare directly. It also directs claimants to the Atos Healthcare website and www.gov.uk for more information on this point.
14. At present, for claimants undergoing a PIP assessment neither DWP nor its providers (Atos Healthcare and Capita) provide claimants with an audio recorded assessment.
15. DWP has explained that claimants may audio record their assessment using their own equipment as long as it done using an acceptable format, such as a CD or audio-cassette, and that the equipment used should be capable of providing two identical and complete copies of the recording at the end of the assessment. As with the WCA, DWP does not specify the type or make of equipment to be used.
16. DWP has explained it does have a policy covering the audio-recording of face-to-face assessments as part of the WCA process. The face to face assessments are carried out by Atos Healthcare, which has been contracted by DWP to carry out this part of the WCA process. Accordingly, Atos Healthcare implements DWP's policy on audio recording in these circumstances. DWP has explained that its policy is an interim one and that it is evaluating the impact of the policy before making a decision as to the final policy.
17. DWP's policy on audio-recording is published at www.gov.uk and can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205317/Audio_policy - Information for Claimants FAQ.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205317/Audio_policy_-_Information_for_Claimants_FAQ.pdf)
18. DWP has therefore explained it does not hold or retain a list of acceptable recording equipment and the current policy is that claimants wishing to use their own equipment need to discuss this with Atos Healthcare in order to ascertain whether their equipment will provide recordings in compliance with the general policy.
19. DWP therefore does not prescribe specific types or makes of equipment to be used in the audio recording of assessments and does not maintain a list of such equipment.

20. The Commissioner is satisfied that on the balance of probabilities, DWP does not hold a list of acceptable recording equipment.
21. Throughout the request, DWP has explained that the complainant was specific in that he wanted only an answer to his question: whether the Omega Reporter 20 recording devices were acceptable for use in a WCA or PIP assessment.
22. On reflection, in the interest of customer service, DWP has explained it could have provided the complainant with a link to the FAQ document published at the www.gov.uk website. Although this would not have answered his question, it could have assisted in his understanding of the recording process.

Right of appeal

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

Website: 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

Rachael Cragg
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