

Freedom of Information Act 2000

Decision notice

Date: 1 March 2016

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

Decision (including any steps ordered)

1. The complainant requested information on an issue relating to benefit reform from the Department for Work and Pensions (DWP). The DWP denied holding any relevant information.
2. The Commissioner's decision is that on the balance of probabilities the DWP is unlikely to hold any relevant information. No steps are required.

Request and response

3. On 20 July 2015, the complainant wrote to the DWP and requested information in the following terms:
"Could you explain what safeguards have been taken to ensure the Prime Minister's rhetoric on Benefit Reform is compliant with the United Nations Declaration of Human Rights. Article One. Right to live?"
4. The DWP responded on 6 August 2015 and denied holding any relevant information. It explained in general terms the UK government's relation to the Universal Declaration on Human Rights, but stated that this does not impact on domestic law.
5. The DWP issued its internal review response on 8 September 2015, in which it upheld the outcome of its initial response.

Scope of the case

6. The complainant contacted the Commissioner on 25 August 2015 to complain about the way his request for information had been handled. The Commissioner accepted the complainant's appeal on 18 September 2015 once he had provided all the necessary documentation to support it.
7. The Commissioner considers the scope of the case to be whether the DWP holds any information relevant to the complainant's request.

Reasons for decision

8. Section 1(1) of the Freedom of Information Act 2000 (the Act) states that:

Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

9. In instances where there is a dispute between two parties over the amount of information held in a public authority's records, the Commissioner – in accordance with decision from the First-Tier Tribunal – applies the civil standard balance of probabilities test. In effect, he seeks to determine whether it is likely or not that the public authority holds further relevant information to the complainant's request.
10. The DWP's submissions to the Commissioner confirmed that there are arrangements to check that proposed changes to welfare legislation are compliant with UK law. However, the Universal Declaration of Human Rights referred to in the request is an international instrument and does not have any direct bearing on UK domestic law or the proposed changes to legislation. The DWP referred the Commissioner to the explanation it gave the complainant in its initial response, which stated:

Article 3 of the Universal Declaration of Human Rights states that "everyone has the right to life, liberty and the security of person". The Declaration is not justiciable in UK courts or directly applicable or enforceable in domestic law. The UK Government, however, places high regard on its principles, and the UK is in fact a party to (and periodically reports to the United Nations under) the International Covenant on Civil

and Political Rights (which protects the right to life at Article 6) and the International Covenant on Economic, Social and Cultural Rights.

11. The Commissioner considers this argument to be reasonable. There is no tangible link between the Universal Declaration on Human Rights and the proposed changes to welfare legislation. The Commissioner cannot conceive of any sensible reason why the DWP would need to ensure that any comment from the Prime Minister is compliant with the Universal Declaration on Human Rights, nor why it would keep any formal record of this on the seemingly remote chance it were to occur.
12. The Commissioner's decision is that on the balance of probabilities the DWP is highly unlikely to hold the requested information. No steps are required.

Right of appeal

13. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

14. 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.
15. 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

Alexander Ganotis
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