

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 March 2017

**Public Authority:** The Decision for Work and Pensions

**Address:** 4<sup>th</sup> Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to the roll out schedule of Universal Credit.
  2. The Commissioner's decision is that the Department for Work and Pensions (DWP) has breached section 10 of the FOIA by failing to respond to the request.
  3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
    - Issue a substantive response to the complainant under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
  4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.
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## Background

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5. The complainant originally made a request to DWP on 3 December 2015. Having received a response, the complainant contacted DWP again on 22 March 2016 seeking an internal review and in doing so clarified the nature of the information he was seeking. In response DWP applied section 12 of the FOIA and the complainant contacted the Commissioner for a decision.
6. During the course of the Commissioner's investigation, it became apparent that the complainant's interpretation and DWP's interpretation of the request differed.
7. In an attempt to resolve the case, the Commissioner set out to DWP the complainant's interpretation of the request and asked it to review the request using this interpretation.
8. DWP's position was that the interpretation provided by the Commissioner constituted a fresh request for information as the interpretation refined the request in a way that was not obvious to the DWP.
9. DWP set out that it was willing to accept the provided interpretation as a fresh request and suggested specific wording for this new request. The Commissioner communicated this wording with the complainant and confirmed to DWP that the complainant agreed with the suggested wording.
10. The Commissioner's initial position was that the complainant's interpretation of the request was correct. However, on review of the case, she has revised her position and considers that the agreed wording constitutes a refined request for information made by the Commissioner on behalf of the complainant.
11. The Commissioner acknowledges that this case is unusual in that she would not, in ordinary circumstances, make a request on behalf of a complainant. The Commissioner considered that, in the specific circumstances of this case, it was appropriate for her to liaise between DWP and the complainant to ensure that the interpretation of the request was agreed by both parties. In such circumstances, the Commissioner would expect the public authority to provide a fresh response in a timely manner such that the complaint could be resolved informally. Unfortunately, despite the Commissioner's communications with DWP, no such response has been provided to either the complainant or the Commissioner.

## Request and response

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12. On 14 December 2016, the Commissioner wrote to DWP on behalf of the complainant, and requested information in the following terms:

*"I seek information relating to the 2021 target date held in the latest update or briefing (at the time of the original request – 3 December 2015) provided to the Universal Credit Programme board"*

13. To date, neither the complainant nor the Commissioner has received a substantive response to the request.

## Scope of the case

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14. The Commissioner considers the scope of this case to be whether DWP has complied with section 1(1) and section 10(1) of the Act.

## Reasons for decision

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15. Section 1(1) of the Act states:

*"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."*

16. Section 10(1) of the Act states:

*"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

17. The Commissioner contacted DWP on 14 December 2016 to request DWP consider the information falling within the scope of the wording at paragraph 12 for disclosure. She confirmed with DWP that it should contact the complainant directly to either provide the information or inform him of the exemption that it wished to rely on.

18. As set out in the 'Background' section of this notice, DWP had previously confirmed to the Commissioner that it was willing to accept the refined request as a fresh request under the FOIA.

19. As no response has been provided regarding the request dated 14 December 2016, the Commissioner's decision is that DWP has breached section 10(1) of the Act.

### **Other matters**

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20. Due to the excessive length of time taken by DWP to provide a response under the FOIA since it received the request in December 2016 *and* because of the complex background to this request as discussed in the Background section above, should the complainant be dissatisfied with the response issued by DWP, the Commissioner will accept a complaint regarding this request without an internal review.

## Right of appeal

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21. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

22. 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.
23. 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 .....

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**