

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 January 2018

Public Authority: The Department for Work and Pensions

Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested a sample document from the Department for Work and Pensions ("the DWP") which relates to entitlement to Employment and Support Allowance.
2. The Commissioner's decision is that, on the balance of probabilities, the DWP does not hold any information which falls within the scope of the request other than a sample letter "ESA125" which had previously been provided to the complainant.
3. The Commissioner does not require the DWP to take any steps.

Request and response

4. On 28 April 2017, the complainant wrote to the DWP and requested information in the following terms:

"In the FoIA request below we asked you to provide a sample of the document which Income-Based ESA claimants would show pharmacy staff, dental staff, etc as evidence of ongoing entitlement to free prescriptions and treatment. The evidence needed to contain a review date so they could type this in on their system [link provided]. You responded above by providing us with a sample of ESA125 which

certainly gave the impression that it contained a review date - but we have been contacted with proof that this is in fact not the case. A claimant with on-going entitlement to Income-Based ESA has provided us with a real life copy of an ESA125 and it gives no indication when the entitlement is up for review..... we ask that you provide a sample of the document which a claimant on Income-based ESA would ask for, complete with review date."

5. The DWP responded on 23 May 2017. It stated that it could not provide any document other than the sample ESA125, which it had provided in response to the earlier request referred to. It also explained that: *"a review date is any date the individual's benefit payments will change. In most instances the first known change would be due at the next uprating period where benefits increase on an annual basis; as a result an award would usually have the uprating date as the review date. Once the expiry date is reached another award notice would be issued or alternatively one can be requested at any time by the individual."* The DWP's position was therefore that no further information was held other than that which it had already provided.
6. The complainant requested an internal review on 23 May 2017, stating that the ESA125 did not show the date at which a claimant's entitlement to ESA would be reviewed in the future. Following an internal review the DWP wrote to the complainant on 21 June 2017. It upheld its position.

Scope of the case

7. The complainant contacted the Commissioner on 21 June 2017 to complain about the way his request for information had been handled.
8. The Commissioner considers that the scope of the case has been to determine whether the DWP holds any information falling within the scope of the request.

Reasons for decision

Section 1 – information held/not held

9. Section 1 of the FOIA states that:

"(1) 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.”
10. The Commissioner has investigated what information is held by the DWP falling within the scope of this request.
 11. After the Commissioner contacted the complainant to clarify what he expected the DWP to hold, he explained that it was his understanding that every claimant record would contain a review date, being the date on which the claimant’s entitlement to benefits would be reviewed. He explained that, without the date, *“the DWP would not know which batches of claimants they need to refer to their Work Capability Assessor in a given period.”* He therefore wished to identify, and be provided with, the document which contained this particular field.
 12. The Commissioner asked the DWP whether it was aware of a document, possibly held as part of a claimant record, which contained a field showing the date referred to by the complainant.
 13. The DWP explained that it referred to this date as “the prognosis date” and stated that *“any letter that uses the prognosis letter as proof of benefit does not exist.”*
 14. The DWP offered further explanations. These explanations, which took into account the request and the complainant’s earlier, related request, focused on what information it held regarding claimants’ ongoing entitlement to benefit. It explained that any letter that included the prognosis date would not, in any event, be proof of entitlement to benefit, but only proof that there would be a re-assessment at some stage. It explained that the ESA125 letter, previously provided to the complainant, serves as proof of payment of benefits to pharmacists, etc. While the ESA125 can only be accepted as evidence of receipt of benefits for one month, a new one can be requested by a claimant at any time.
 15. The Commissioner inquired how the prognosis date is stored at the DWP. The DWP explained that it is recorded digitally on its systems as a system prompt with reference to when a work capability assessment may be due.
 16. The DWP has explained what searches were carried out for information captured by the scope of the request. These included searches of all relevant ESA correspondence and ESA guidance on the central DWP information repository and externally, using relevant search terms including *prognosis date, ESA, proof of benefit and proof of benefit letter.*

17. The Commissioner explained to the complainant that she was satisfied that, on the balance of probabilities, "*a sample of the document... complete with review date*" is not held.
18. The complainant argued that the date may be held as part of a claimant record in the event that a claimant was to make a Subject Access Request under the Data Protection Act 1998, and that this part of an individual claimant's record could potentially be captured as a screenshot.
19. In the Commissioner's view, this would not fall within the scope of the request and the DWP would not be expected to access an individual claimant record and take a screenshot in order to respond to the request which is under consideration in this notice. While a claimant could potentially retrieve information outside of what is on the ESA125 by making a SAR, this would not be caught by the scope of the current request.
20. She has therefore determined that, on the balance of probabilities, no information is held falling within the scope of the request (other than the sample ESA125 letter previously provided) and does not require the DWP to take any steps.

Right of appeal

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

Website: 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

Alun Johnson
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