

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 January 2023

Public Authority: Department for Work and Pensions
Address: Caxton House
6-12 Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested risk assessments related to unauthorised access of Universal Credit records. The above public authority ("the public authority") disclosed a small amount of information, but relied on sections 31 (law enforcement) and 24 (national security) of FOIA to withhold the remainder.
2. The Commissioner's decision is that the public authority has correctly engaged section 31 of FOIA and that the balance of the public interest favours maintaining the exemption. The public authority breached section 10 of FOIA as it disclosed some information outside of the 20 working day timeframe
3. The Commissioner does not require further steps.

Request and response

4. On 6 January 2022, the complainant wrote to the public authority and requested information in the following terms:

"Please provide a copy of a risk assessment (possibly titled 'security risk assessment') which identifies risks associated with deliberate malicious access of UC claimant records by people working on the physical or technical DWP estate. If possible please include a record of the controls identified to mitigate the risk."

5. The public authority responded on 17 January 2022. It relied on sections 24 and 31 of FOIA to withhold the information – a position it upheld following an internal review.
6. During the course of the Commissioner's investigation, the public authority decided that it could disclose the broad categories of risk it had assessed and it disclosed this to the complainant on 23 January 2023.

Reasons for decision

7. Section 31 of FOIA allows a public authority to withhold information that either might assist someone to commit a crime, or make it more difficult for law enforcement agencies to detect when (and by whom) a crime had been committed.
8. The Commissioner has viewed a portion of the withheld information. In broad terms, various risks are recorded within the document. For each risk, the withheld information records what the risk is, how it arises, what counter-measures are in place to mitigate that risk and an evaluation of how effective current counter-measures are.
9. If a person with malicious intent knows exactly how the public authority has assessed an individual risk and, most importantly, knows what counter measures the public authority has in place and how successful they are, it will make it much easier for that person to access records in a manner likely to avoid detection. The public authority was keen to stress to the Commissioner that only a small number of people within the organisation had access to the withheld information – for precisely this reason.
10. In addition, merely disclosing the individual risks that the public authority had identified may, in itself reveal useful information as it might indicate risks that the public authority had either not identified or had given insufficient consideration to.
11. The Commissioner wishes to stress that he is not suggesting that the complainant himself would wish to use the information for malicious purposes, only that, once the information is disclosed, it is considered to be disclosed to the world at large. The public authority have no ability to control further use of the information. Given that the request has been made using the whatdotheyknow.com website (and therefore any information that was disclosed would be instantly published for all to see), those concerns are literal in this case and not just theoretical.

12. In the circumstances the Commissioner is satisfied that disclosure would make it easier for malicious individuals to commit crimes and therefore the exemption is engaged.

Public interest test

13. The Commissioner recognises that the public authority holds, both specifically in the Universal Credit system and more generally, a considerable amount of personal data. Both the volume of the data and its sensitivity make it imperative that the public authority puts the strongest possible safeguards in place to avoid unauthorised access. There is a public interest in understanding how good a job the public authority is doing at protecting this sensitive information.
14. In particular, the complainant noted that the information might reassure potential claimants. He suggested that victims of domestic violence might be dissuaded from making a claim if they felt that their details would not be sufficiently protected.
15. Given the issues the Universal Credit system has faced and continues to face, there is also a public interest in understanding how well the system is operating in general.
16. However, in these circumstances, the Commissioner considers that the public interest lies in withholding information whose disclosure would increase the risk of crime. In particular he notes that disclosure would actually undermine the public authority's efforts to keep personal data secure as it would reveal potential vulnerabilities within the system.
17. The public authority is subject to oversight by Parliament and the National Audit Office – both of whom are able to determine how well it is managing risk. Individual claimants are also able to exercise their rights under data protection legislation if they have specific concerns about the way their personal data is being processed.
18. The Commissioner is thus satisfied that section 31 is engaged and that the balance of the public interest favours maintaining the exemption. He has not gone on to consider whether section 24 of FOIA would apply.
19. The public authority breached section 10 of FOIA as it disclosed some information outside of the 20 working day timeframe.

Right of appeal

20. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

21. 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.
22. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
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SK9 5AF