

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 March 2023

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 'data and insights into customers' top areas of concern' collated by the Department for Work and Pensions (DWP).
2. The Commissioner's decision is that DWP has failed to fully consider all of the information specified in the complainant's request.
3. The Commissioner requires DWP to take the following steps to ensure compliance with the legislation:
 - Issue a fresh response to the complainant that considers all of the information falling within the scope of the request and either disclose the information or, in respect of any information it wishes to withhold, issue a refusal notice within the meaning of section 17 of FOIA providing a basis for withholding the information. Specifically, DWP should provide a fresh response in relation to the information that led to the breakdown of customers' top areas of concern and the information provided by ACSSLs to Senior Leadership Teams and the Serious Case Panel.
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.

Request and response

5. On 2 February 2022, the complainant wrote to DWP and requested information in the following terms:

"This written question states that the department has gathered 'data and insight into customers' top areas of concern:

<https://questions-statements.parliament.uk/written-questions/detail/2022-01-17/hl5430>

Please provide these data and insights into customers' top areas of concern. If a paper, briefing, or other documents has been written with the aim of explaining or summarising the data and insights then please provide this".

6. DWP provided its response on 16 February 2022. DWP confirmed that it held the requested information but was withholding this under section 35(1)(a), formulation or development of Government policy.
7. The complainant requested an internal review on 23 February 2022. They disputed that the information should be withheld and considered that the public interest lay in disclosure.
8. The complainant stated:

"ACSSLs¹ are presumably flagging these systemic concerns to inform the work of the Serious Case Panel. ACSSLs and the Serious Case Panel were introduced by DWP following the deaths of Alexander Boamah, Errol Graham, Jodey Whiting, and Phillipa Day. These deaths led DWP to make changes to legislation and guidance to address what DWP must have recognised were systemic problems affecting those individuals. There is a public interest in knowing what issues are now being flagged up as systemic problems.

There is also a public interest in knowing whether the introduction of ACSSLs is an effective feedback mechanism for DWP. DWP does not appear to have done any form of evaluation regarding the introduction of ACSSLs, and seems to collect very few stats about their work, and so

¹ Advanced Customer Support Senior Leaders

the means we have for judging whether their introduction is effective is to request the feedback they are providing to DWP”.

9. DWP provided the outcome of its internal review on 22 March 2022 and upheld its original position.
10. DWP explained that data and insight from the work of ACSSLs is one of the various sources that can be analysed and fed into its Serious Case Panel. DWP confirmed that information on the Serious Case Panel, and minutes of the meetings are available via <https://www.gov.uk/government/groups/dwp-serious-case-panel> and that further information has also been published in DWP’s Annual Report and Accounts².

Scope of the case

11. The complainant originally contacted the Commissioner on 22 March 2022 to complain about DWP’s reliance on section 35(1)(a) to withhold the requested information.
12. During the course of the investigation, DWP confirmed that in light of the passage of time, it now considered that the withheld information could be disclosed.
13. In its revised response to the complainant, dated 8 February 2023, DWP provided the “five most prevalently recorded categories from ACSSL activity in January 2022” and a broad explanation of the type of cases that fall into each category.
14. DWP also provided some content to this data which it considered the complainant may find useful. DWP stated:

“DWP has around 20 million claimants and customers accessing its services, and ACSSLs support internal teams with customers who have multiple needs. They are a critical link into external agencies’ escalation routes, enabling increased cross-agency case collaboration and more holistic support for customers. As their role has developed, since their introduction, ACSSLs have built the capability and confidence of frontline teams – coaching them in using existing tools for the most complex cases and supporting them in applying new guidance.

² <https://www.gov.uk/government/publications/dwp-annual-report-and-accounts-2020-to-2021>

Information captured from ACSSL activity does not form part of official national statistics and is manually gathered from tracking systems created to provide ACSSLs with a consistent way in which to record the support they provide. When an ACSSL receives a request for support a broad categorisation is assigned to it for the purpose of understanding the customer issue or concern that has potentially been identified. This is open to interpretation and does not provide a 'root cause' of potential issues or concerns. The customer barriers, issues or concerns can also be completely separate from DWP services, for example, we could have identified customer needs which require a multi-agency approach to help the customer get the support they need.

Information gathered from ACSSL activity can inform work taken forward across DWP and is one of the sources that can be analysed and fed into the DWP's Serious Case Panel."

15. On 20 February 2023, the complainant confirmed to the Commissioner that they disputed that DWP had provided all of the information falling within the scope of the request.
16. The Commissioner asked DWP to confirm what information was held and how this information was held. Following DWP's response, it became apparent that the two parties had differing interpretations of the request.
17. In circumstances such as this, where the two parties have differing interpretations of the request, the Commissioner will issue a decision notice which confirms which interpretation he considers to be the correct one.
18. The Commissioner will therefore determine the objective interpretation of the request.

Reasons for decision

Section 1: General right of access

19. Section 1 of FOIA 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".

20. Section 8(1) of FOIA states:

“In this Act any reference to a “request for information” is a reference to such a request which –

- (a) is in writing,
- (b) states the name of the applicant and an address for correspondence, and
- (c) describes the information requested”.

21. Section 84³ of FOIA defines “information” in this context as being information “recorded in any form”.

22. Public authorities must interpret requests for information objectively. They must avoid reading into the request any meanings that are not clear from the wording. If the request clearly specifies exactly what information the requester wants, then there will only be one objective reading to the request.

23. Section 1(3) of FOIA provides that where public authorities require further information in order to identify and locate the information requested, and this has been communicated to the requester, the public authority is not obliged to comply with the request until this clarification has been received.

24. The Commissioner’s established position is that if a request has more than one objective reading, and the public authority does not take the opportunity to clarify the request, he will accept the requester’s interpretation as the correct one provided that it is an objective interpretation of the request.

25. The complainant confirmed to the Commissioner that they disputed that DWP had located all of the requested information for the following reasons. DWP stated that ACSSLs had helped them gather data and insight into top areas of concern and that this had helped them to deliver a better service.

26. The complainant explained that some data had been provided, however, the information provided is extremely broad and the complainant stated that it is hard to see how such broad information could possibly have helped DWP to provide a better service and they therefore considered

³ <https://www.legislation.gov.uk/ukpga/2000/36/section/84>

that there may be more detailed data and insight which could be provided.

27. They also considered that Baroness Stedman-Scott would have been unlikely to refer to the information provided by ACSSLs in her Parliamentary answer if the information provided by ACSSLs was so lacking in detail.
28. The complainant provided a link to the ACSSL vacancy job description⁴ and explained that this states that ACSSLs are responsible for providing insight and making recommendations to support organisational learning and identifying issues to ensure that learning from intelligence is shared to support a better customer service. The complainant explained that as this is a core part of the role of an ACSSL, they would be surprised if the data and insight were to be lacking in detail.
29. The complainant also explained that DWP had set up a team to act on data and insight into customer experience and could be expected to act on the data and insights provided by ACSSLs⁵.
30. As set out in paragraph 8 above, the complainant confirmed to DWP in their request for internal review that they considered that the ACSSLs are presumably flagging concerns to inform the Serious Case Panel and that they considered that the public interest lay in knowing what issues are being flagged up as systemic problems. They also confirmed that the request was made for the purpose of scrutinising the "feedback they are providing to DWP".
31. Following the complainant's confirmation of the information they were seeking, the Commissioner asked DWP to confirm how it records the ACSSL's insight and recommendations and whether it holds information that led to the table of 'top areas of concern' provided to the complainant.
32. DWP explained that the cases that ACSSLs support are recorded on their individual trackers, which are Excel based. They are not linked to DWP Service Delivery Systems and were created to ensure that ACSSLs have a consistent way in which to record the support they provide within their geographic area of responsibility.
33. DWP explained that the national network of ACSSLs is there to ensure colleagues across DWP can access support, guidance and coaching to

⁴ https://www.rightsnet.org.uk/?ACT=39&fid=3&aid=2536_wUq2KEkf9IGbvEMb4amN&board_id=1

⁵ <https://www.rightsnet.org.uk/forums/viewthread/8346/P75/#75010>

assist its most vulnerable customers with access to third party and external support. ACSSLs do not have case ownership or system access to DWP systems, they are there to support with the navigation of DWP processes and systems to prevent further risk and facilitate join up, both within DWP and where a multi-agency approach is needed. Central to their roles is to create a collaborative approach across their geographic area.

34. DWP set out that, as explained in its response to the complainant, information captured from ACSSL activity does not form part of official national statistics. The information gathered by ACSSLs is to assist them in supporting colleagues and customers. DWP explained that it has built in areas to ACSSL trackers where they are able to select from a set of pre-determined options, where they interpret what is relevant to that individual case, and there is also free text boxes to allow them to record their notes on why the case has come for ACSSL support and what they have done to support.
35. DWP explained that ACSSLs do record a broad categorisation to each case for the purpose of understanding the customer issue or concern that has potentially been identified. DWP set out that this is open to interpretation and does not provide a 'root cause' of potential issues or concerns. The customer barriers, issues or concerns can also be completely separate from DWP services, and it could be that the ACSSL is providing join up with services external to DWP which have been identified as being of help to the customer.
36. DWP explained that whilst ACSSLs are funded from DWP Customer Experience, their line management sits with the Service Leader for the Work and Health district in which they work. ACSSLs will feed into their local Senior Leadership Teams and will provide their insight, based upon the cases they are supporting, as part of this. DWP explained that data and evidence from ACSSL cases can also inform work being taken forward through wider governance routes within DWP, where it looks to understand if a potential issue being taken forward elsewhere in DWP can be evidenced as occurring through the work ACSSLs take forward.
37. DWP confirmed that it held information that led to the table of 'top areas of concern' provided to the complainant. DWP explained that as the ACSSL trackers are Excel based, it has been able to feed these into a tracker that brings the information together in one place, allowing DWP to know what the occurrence of the use of specific broad categories are. DWP explained that, however, without understanding the case in detail and the context in which a category has been applied, this does not provide insight but does provide data of "top areas of concern", ie the most prevalently used categories in any given month from across the ACSSL network.

38. DWP explained that each month, to understand the scale of work ACSSLs were supporting on, it gathers data on some of the fields in which ACSSLs record information, and separately record these on another excel document. DWP confirmed that it was from this document that the 'top areas of concern' were collated. DWP explained that other data from ACSSL trackers is also collated on this separate excel document and provided a list of the information included, but it considered that this fell outside of the scope of the request.

The Commissioner's position

39. The Commissioner considers that DWP has artificially narrowed the scope of this request by only considering the breakdown of the top five areas of concern as held at January 2022.

40. The request sets out that the complainant is seeking the "data and insight" provided by ACSSLs as confirmed by the response to the written question referenced in their request. The Commissioner notes that the answer to the written question states:

"ACSSLs have also helped us gather data and insight into customers top areas of concern, helping us to deliver a better service for all claimants".

41. The Commissioner considers that the objective interpretation of this request is that the complainant is seeking the information fed back by ACSSLs in light of their work. This includes the trackers which provided the top areas of concern data and also the information that has been provided to Senior Leadership Teams and the Serious Case Panel to improve DWP's services. The Commissioner also considers that the request does not include a specific timeframe and therefore should not be restricted to the month prior to the request being made.

42. This is supported by the complainant's confirmation at internal review that they would expect ACSSLs to be providing feedback to inform the work of the Serious Case Panel and that they consider the public interest favours disclosure of the issues being flagged up as systemic problems. The complainant also confirmed that the request was made in order to scrutinise the feedback ACSSLs are providing to DWP.

43. The Commissioner also notes, as set out by the complainant, that the Job Vacancy for ACSSLs confirms that they would be expected to:

- "Provide insight and make recommendations to support organisational learning including influencing leaders at all levels.
- Working in partnership with the centralised Operational Delivery team to identify issues and ensure that learning from this intelligence is shared to support a better customer service."

44. In its revised response to the complainant, DWP confirmed that ACSSLs use tracking systems created to provide ACSSLs with a consistent way in which to record the support they provide and that information gathered from ACSSL activity can inform work taken forward across DWP and is one of the sources that can be analysed and fed into the Serious Case Panel.
45. The Commissioner considers that this information falls squarely within the scope of the request.
46. The Commissioner therefore requires DWP to issue a fresh response to the complainant which includes all of the information falling within the scope of the request, specifically the information recorded by ACSSLs leading to DWP's top areas of concern and the information provided by ACSSLs to Senior Leadership Teams and the Serious Case Panel.

Right of appeal

47. 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

48. 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.
49. 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

Victoria Parkinson
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