

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 August 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 any Data Protection Impact Assessments (DPIAs) updated following the expansion of the Integrated Risk and Intelligence Service (IRIS).
2. The Commissioner's decision is that the Department for Work and Pensions (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 that considers all of the information falling within each DPIA.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 1 February 2023, the complainant wrote to DWP and requested information in the following terms:

“According to the DWP commercial pipeline at April 2022 (<https://www.gov.uk/government/collections/dwp-commercial-pipeline>) “[t]he Integrated Risk and Intelligence Service (IRIS) provides a service to identify both singleton and organised fraud and error. Post-Covid crisis IRIS has been challenged to be near real time and adapt faster to changing Modus Operandi. To improve fraud and error prevention, and support the drive towards self-service interactions we need to run better rules with increased accuracy, increase the use of machine learning improving predictive modelling and integrate with a new Case Management system and Identity service to assess claims for risk.”

According to the information published by DWP the contract for this work had the title ‘IRIS Common Risk Engine’ and was estimated to run for 6 months from 01/07/2022.

Paragraph 48 of the Report of the Comptroller and Auditor General, published in July 2022 with the DWP Annual Report and Accounts 2021-2022 (<https://www.gov.uk/government/publications/dwp-annual-report-and-accounts-2021-to-2022>), stated that DWP had trialled a risk model which used a machine learning algorithm in order to detect fraud.

Fig.1 in the May 2022 Policy Paper ‘Fighting Fraud in the Welfare System’ shows how IRIS fits into DWP’s wider anti-fraud activity (<https://www.gov.uk/government/publications/fighting-fraud-in-the-welfare-system>).

Please provide:

1. all Data Protection Impact Assessments (DPIAs) for the Integrated Risk and Intelligence Service (IRIS) updated to account for the expansion of IRIS referred to in the DWP commercial pipeline;

And, of those DPIAs, please provide:

2. information indicating whether or not each DPIA was sent to the ICO
3. any written advice or formal warnings provided by the ICO regarding each DPIA;

4. (if relevant) documented reasons for not carrying out a DPIA.”
6. DWP provided its response on 1 March 2023 and confirmed it held the requested information falling within request 1. DWP withheld this information as it considered that section 31¹ was engaged and the public interest favoured maintaining the exemption. DWP confirmed that it did not hold information falling within the scope of requests 2, 3 or 4.
7. On 7 March 2023, DWP upheld its position following an internal review of the handling of the request.

Scope of the case

8. The complainant contacted the Commissioner on 28 March 2023 to complain about the handling of their request for information.
9. During the course of the investigation, DWP located further information which fell within the scope of the request. On 23 June 2023, DWP wrote to the complainant and confirmed that it held two DPIAs. It confirmed that it had provided a redacted copy of 'DPIA 1300' in response to a previous request and it was now providing a redacted copy of "DPIA 917".
10. DWP stated:

“We have concluded that specific details within both DPIAs are exempt from release due to provisions contained in Section 31(1)(a) of the Freedom of Information Act 2000 (“the Act”), which covers the prevention of crime. We have also redacted any information contained within DPIA 917 that does not fall within the scope of the request”.
11. The complainant disputed that any of the contents of DPIA 917 would fall outside the scope of the request as they considered that as they had requested the DPIA itself then the entirety of its contents would fall within the scope of the request.
12. DWP confirmed to the Commissioner that it was maintaining its position that this information fell outside the scope of the request.
13. The Commissioner confirmed to the complainant that he would therefore proceed to decision notice and consider the scope of the request.

¹ DWP did not confirm which subsection it was relying on.

14. 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.
15. The Commissioner will therefore determine the objective interpretation of the request.

Reasons for decision

Section 1: General right of access

16. 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".

17. 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".

18. Section 84 of FOIA defines "information" in this context as being information "recorded in any form".

19. 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.

20. The complainant confirmed that they had requested the DPIAs updated following the expansion of IRIS and therefore the entirety of the DPIA would fall within the scope of the request.

21. The Commissioner wrote to DWP and set out his preliminary opinion that the complainant's interpretation was the correct objective reading of the request.
22. DWP responded that it had disclosed a redacted copy of DPIA917 and this included;
 - information on IRIS which was deemed to be in scope of the request; and
 - information not related to IRIS which was therefore considered to be out of scope.
23. The Commissioner considers that DWP has incorrectly narrowed the scope of this request. The Commissioner considers that the request is for the DPIAs themselves rather than for specific information within the DPIAs.
24. The Commissioner acknowledges that the complainant has defined which DPIAs they are seeking as those "for" IRIS which were updated following the expansion of IRIS, but he does not consider that this means that the information within the DPIAs must relate solely to this subject matter. The request is for the DPIAs as a whole and DWP has accepted that the DPIA itself falls within the scope of the request.
25. The Commissioner considers that the wording of requests 2-4 supports this interpretation as this refers to the DPIAs themselves and requested information about them as a whole rather than the information within them.
26. Where a request has more than one objective reading, or is unclear, FOIA provides that public authorities can request clarification to understand exactly what information is being requested. In cases where a public authority does not take this opportunity to clarify a request, the Commissioner's established approach is that he will accept the complainant's interpretation of the request as correct provided that it is one of the objective readings of the request.
27. FOIA provides a right of access to information rather than documents, however, where a request for information is defined by a specified document, all of the information within that document will fall within the scope of the request.
28. The Commissioner accepts that the complainant was seeking the DPIAs as a whole and that this is an objective reading of the request.

29. The Commissioner considers that the information within DPIA917 that is not related to IRIS does fall within the scope of the request as it is contained within the requested DPIA.
30. The Commissioner therefore requires DWP to issue a fresh response to the complainant which considers all of the information falling within the scope of the request, specifically the entirety of the information contained within DPIA 917.

Right of appeal

31. 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

32. 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.
33. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF