

DWP Central Freedom of Information Team  
e-mail: [freedom-of-information-request@dwp.gsi.gov.uk](mailto:freedom-of-information-request@dwp.gsi.gov.uk)

Our Ref: Fol 23

Date: 25<sup>th</sup> January 2018

Dear Mr Zola,

Thank you for your Freedom of Information request of 3 January 2018. You asked:

*Dear Department for Work and Pensions,*

*Please disclose a copy of all Designation Orders (including drafts) specific to the Work and Health Programme (WHP), together with information about the regulations and legislation which give the DWP and or it's WHP providers authority/power to request, share and obtain claimant/participant personal data from/with any Third Party who are not DWP Data Processors, such as an employer.*

*Can WHP participants explicitly decline or withdraw consent to allow the DWP and or it's WHP providers authority/power to request, share and obtain claimant/participant personal data from/with any Third Party who are not DWP Data Processors, such as an employer without risk of any financial penalties (sanctions)?*

## **DWP Response**

### **1. Please disclose a copy of all Designation Orders (including drafts) specific to the Work and Health Programme (WHP)**

The Welfare Reform and Pensions Act 1999 (Section 72) Designation Order 2017 is the only published designation order specific to the WHP. The designation order is in relation to Greater Manchester Combined Authority.

The Department relies on **S. 21** of the Freedom of Information Act (FOIA) - (Information accessible to the applicant by other means) and directs you to information that is already in the public domain:

[https://www.parliament.uk/business/publications/business-papers/commons/deposited-papers/?fd=2017-09-26&td=2017-09-29&search\\_term=Department+for+Work+and+Pensions&itemId=119004#toggle-566](https://www.parliament.uk/business/publications/business-papers/commons/deposited-papers/?fd=2017-09-26&td=2017-09-29&search_term=Department+for+Work+and+Pensions&itemId=119004#toggle-566)

The Department confirms that a further designation order relating to Employment Support Officers on the WHP remains unpublished and is currently in draft form as it is yet to be made by the Minister. The order will be published in due course and will be available on [www.legislation.gov.uk](http://www.legislation.gov.uk). The Department relies on the **S.22** exemption in relation to the unpublished designation order. We have applied the public interest test and we take the view that the draft order should not be disclosed as there is insufficient disadvantage to the requester to wait for the publication of the final order. Further, the drafts of the order are not applicable law.

The Department relies on **S.42 FOIA** in relation to any drafts of the unpublished designation order. We have applied the substantial public interest test and on balance are of the view that this information should not be disclosed as the drafts include confidential communications /advice between lawyer and client.

**2. Information about the regulations and legislation which give the DWP and or it's WHP providers authority/power to request, share and obtain claimant/participant personal data from/with any Third Party who are not DWP Data Processors, such as an employer.**

The Department relies on Section 21 of FOIA and directs you to information that is already in the public domain. The information you request may be found in the following legislation:

S.72 Welfare Reform and Pensions Act 1999

The Welfare Reform and Pensions Act 1999 (Section 72) Designation Order 2017

<https://www.legislation.gov.uk/ukpga/1999/30/section/72>

S.13 Social Security (Claims and Information) Regulations 1999 (SI 1999/3108)

<http://www.legislation.gov.uk/uksi/1999/3108/body/made>

[The Jobseekers Allowance (Schemes for Assisting Persons to Obtain Employment) (Amendment) Regulations 2013 (SAPOE).]

[http://www.legislation.gov.uk/uksi/2013/2584/pdfs/uksi\\_20132584\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/2584/pdfs/uksi_20132584_en.pdf)

**3. Can WHP participants explicitly decline or withdraw consent to allow the DWP and or it's WHP providers authority/power to request, share and obtain claimant/participant personal data from/with any Third Party who are not DWP Data Processors, such as an employer without risk of any financial penalties (sanctions)?**

The Jobseekers Allowance (Schemes for Assisting Persons to Obtain Employment) (Amendment) Regulations 2013 (SAPOE) explain that failure to comply without good reason will lead to sanctions. The Department relies on **S. 21** of the Freedom of Information Act (FOIA) and directs you to information that is already in the public domain.

[http://www.legislation.gov.uk/uksi/2013/2584/pdfs/uksi\\_20132584\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/2584/pdfs/uksi_20132584_en.pdf)

The WHP Provider Guidance is currently in draft form but is due to be published around 31<sup>st</sup> January 2018. The Department relies on **S.22 FOIA** (unpublished information). In applying the public interest test we take the view that it would not be in the public interest to disclose this information in draft form as early disclosure may not reflect the final version of the guidance.

Further the Department also relies on **S.42 FOIA** in relation to any drafts of the unpublished guidance. We have applied the substantial public interest test and on balance are of the view that this information should not be disclosed as the drafts include confidential communications /advice between lawyer and client.

We suggest that you visit the site below after the 31<sup>st</sup> January 2018 to access the Provider Guidance.

<https://www.gov.uk/government/collections/dwp-provider-guidance#esf-2014-to-2020>

Yours sincerely,

DWP Strategy Fol Team

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**Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwp.gsi.gov.uk](mailto:freedom-of-information-request@dwp.gsi.gov.uk) or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF [www.ico.gov.uk](http://www.ico.gov.uk)