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Date

21 March 2013

Ben Owen
(sent by email)

Dear Mr Owen,

Freedom of Information Act – Request for Information
Our Reference: FOI 559

Thank you for your Freedom of Information request received on 4 February 2013. You asked:

“Further to your reply to my previous request where you stated the following:

"In March 2012, the Department of Work and Pensions (DWP), was made aware of an allegation in respect of the MWA programme run by A4e in the South East. Consequently, the Department's Internal Audit and Investigations team undertook an audit of its commercial relationship with A4e. Supported by Ernst and Young, they examined the controls operated by A4e's on all its current DWP contracts."

I would like to request the original documentation held by the DWP with regards to both the allegation and audits, including any reports produced as a result of the auditing process relating to the DWP's commercial relationship with A4e, and the audits for A4e's contracts with regards to the Work Programme, the New Enterprise Allowance programme and Mandatory Work Activity.

I can confirm that I am happy for all personal information that may be contained within the audit documents which might be covered by Data Protection legislation to be redacted."

We have interpreted both parts of your request as:

- I. Seeking original documentation regarding the allegation; and
- II. Seeking original documentation regarding the audit reports produced as a result of the auditing process relating to DWP's contracts with A4e, specifically regarding the Work Programme, New Enterprise Allowance and Mandatory Work Activity.

I confirm that the Department holds this information. DWP Internal Audit & Investigations were deployed on the independent review of the Department's commercial relationship with A4e. The Internal Investigations team led on the investigation of the specific allegation and the Internal Audit team, supported by Ernst & Young, conducted the independent audit of the Department's commercial arrangements with A4e.

(I) Seeking original documentation regarding the allegation

The Department treats any allegation of fraud by contractors very seriously. Any fraud is completely unacceptable. Where we identify, or are notified of, allegations of contractor fraud, these cases are investigated thoroughly by DWP's professionally trained and experienced investigations to a standard required to support reference to the Police whenever evidence of criminal offences is discovered.

When an allegation of fraud against a provider is received, we assess whether further enquiries are appropriate. Cases are accepted for investigation if allegations refer to potential fraud by a prime or sub contractor and there is evidence of a potentially serious, or criminal, matter in the allegations made.

Where the allegations are unproven (or unfounded), no further action is taken. Where the investigation identifies evidence of procedural non-compliance, but not evidence of prima facie fraud, these enable the contract management team to seek appropriate remedies (e.g. repayment; control improvement, etc.).

If sufficient evidence of criminal offences is identified, investigators will refer the matter to the Police. Each investigation case is unique and must be considered on its own merits. In determining whether it is appropriate to involve the Police, consideration is given to a number of factors, including the strength of evidence available, whether evidence can be attributed to the actions of an individual(s), whether and how they benefited from their actions, and any intelligence on similar previous investigations involving the contractor. Where there is evidence of an individual falsifying documentation to support false payment claims or where additional factors are evident, such as collusion, we will always refer the case to the Police.

In his statement the Minister for Employment gives details of both the nature of the allegation and the outcome of the investigations. See Annex 1.

Internal Investigation reports contain specimen evidence and the results of analysis of provider claims that typically include customer details and other confidential information. In addition reports may contain details of any witness interviews undertaken and what they have said. The Department has a general duty of care and obligations under the Human Rights Act and Data Protection Act to safeguard individuals and to handle personal data securely. In respect of witness statements, witnesses are not ordinarily protected under the provisions of whistleblowing legislation and may be vulnerable to reprisals by their employer as well as retribution by people implicated in witness statements. In addition to the impact on individuals, full disclosure of reports would be likely to put at risk the co-operation of individuals on whom an investigation can depend. Furthermore, disclosure of both investigative practice and any vulnerabilities exploited by individuals may increase the vulnerability of the system overall.

It is also not ordinarily appropriate to publicise the details of specific investigation cases (e.g. provider details, nature of allegation, and outcomes of investigation):

- Disclosure of unproven (or unfounded) allegations could result in litigation against the Department and damage a provider's commercial standing.
- Disclosure of specific cases where the investigation identifies evidence of procedural non-compliance, but not evidence of prima facie fraud, could impact on the willingness of providers or whistleblowers to bring matters or concerns to our attention in the first place and/or damage contractual relationships. The Department's contractual relationship with providers is built on partnership and joint working.
- Premature disclosure of cases where there is evidence of prima facie fraud may potentially prejudice or damage future DWP or Police investigations. The Police have been clear when conducting investigations that publishing any details of an investigation may carry a serious risk of prejudice to any further action by the Police and/or the courts. The Police may pursue investigations where patterns in suspected offences (e.g. highlighting links between people, organisations, location and events) become evident from such intelligence collected over time. Intelligence of this nature remains relevant and must be held for a minimum of 6 years in line with guidance produced by the National Policing Improvement Agency.

For the reasons set out above, the Department has considered your request for original documentation regarding the allegation and has decided that publicising the original allegation is exempted disclosure under Section 30(2)(a)(i) and 30(2)(b) of the Freedom of Information Act. Section 30(2) provides that information is exempt where: (a) it was obtained or recorded by DWP for the purposes of its functions relating to investigations falling within subsection or (b) and it relates to the obtaining of information from confidential sources.

(II) Seeking original documentation regarding the audit reports produced as result of the auditing process relating to DWP's contracts with A4e regarding the Work Programme, New Enterprise Allowance and Mandatory Work Activity.

Internal Audit is an independent, objective assurance activity designed to add value and improve the Department's operations. Internal Audit review the adequacy and effectiveness of the Department's internal control processes, and would not normally be directed at reviewing a specific individual contract or contractor. Work was undertaken by Internal Audit to audit the commercial relationship with A4e. See Annex 1 for the outcome of the review.

In considering your request for publication of original audit reports, we do not see that public interest would be served by releasing the information at this point and therefore we believe that the information is exempt under Section 36(2) of the Freedom of Information Act.

The public interest factors in favour of disclosure include the need for transparency in the way the Department and its suppliers operate, and the need to reassure the public that systems are in place to identify key risks and assess and manage them effectively.

Public interest factors against disclosure include the need to maintain an efficient and effective internal audit process. There is a strong public interest in ensuring that this process is not undermined. There is also a strong public interest in the Department being able to carry out and use frank assessments, including unrestrained and candid contributions.

The Department has decided that the public interest in not restraining the internal audit process, and in not discouraging those involved from engaging frankly in the process, means that that premature disclosure of this information would be prejudicial to the effective conduct of public affairs. In all the circumstances of the case, the public interest in maintaining this exemption outweighs the public interest in disclosure of these internal audit reports.

If you have any queries about this letter please contact us quoting the reference number above.

Yours sincerely

CD Communications Team

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-req@xxx.xxx.uk or by writing to DWP, Central FoI Team, Caxton House, 6-12 Tothill Street, London. 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

Annex 1

15 May 2012 – Employment Minister Chris Grayling makes statement on A4e

Minister for Employment, Chris Grayling:

The DWP's Work Programme providers are required to ensure that stringent controls are in place to guard against fraud and to adhere to high standards of compliance in the operation of our contracts. By its innovative payment by results design, the Work Programme also provides significantly greater protection against fraud than previous employment programmes.

In March 2012, against a background of public commentary on A4e, the Department was made aware of an allegation in respect of their separate Mandatory Work Activity contract. This is very different from the Work Programme. It is much smaller, shorter and focused on providing brief spells of work-related activity to individuals who will benefit from such activity. In contrast the Work Programme aims to deliver sustained job outcomes for the long term unemployed.

In the light of the allegation received, the Department announced it would audit its commercial relationships with A4e. The Department's Internal Audit and Investigations team undertook this audit, supported by Ernst and Young, and examined the controls operated by A4e on all its current contracts with DWP.

The audits for the Work Programme, the New Enterprise Allowance programme and Mandatory Work Activity are now complete. They have found no evidence of fraud in any of these contracts.

The original allegation suggested that A4e employees may have claimed payments for Mandatory Work Activity participants who had not in fact been placed in work. The team investigated every MWA claim from the A4e office related to the specific allegation (Epsom) and a significant sample (20%) of all the other A4e claims under this contract. The sample evidence established that 97% of payments made related to a real participant who had been placed in a work-related activity. In the remaining 3% of cases, DWP investigators were nevertheless satisfied that the anomalies were attributable to inadequate procedures rather than fraud.

However, while the team found no evidence of fraud, it identified significant weaknesses in A4e's internal controls on the Mandatory Work Activity contract in the South East. The documentation supporting payments was seriously inadequate, and in a small number the claim was erroneous. There was also a high incidence of non-compliance with other relevant guidance (including A4e's own processes).

The process established prior to March fell significantly short of our expectations. As a result, the Department has concluded that continuing with this contract presents too great a risk and we have terminated the Mandatory Work Activity contract with A4e for the South East.

Contingency plans are in place to ensure there is continuity of support for participants in the Mandatory Work Activity programme.

We have made clear to A4e that we continue to require the highest standards of governance in relation to all their other contracts. We are reminding all our other

providers of their obligations and our requirements in this regard and, should any further allegations arise, we will examine the evidence thoroughly.

The Department will reflect on how it can further improve its processes in the light of these audits to address any remaining control risks across all contracts and providers.