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Date:

9 January 2015

John Slater
Sent via Whatdotheyknow website

Dear Mr Slater

Freedom of Information Act - Request for Information
Our Reference: IR 0001 (FOI 5244)

Thank you for your request for an Internal Review received on XX xx 2015, following our response to your Freedom of Information request. Your request asked:

I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Disclosure of Benefits Being Claimed to Banks'.

The answer provided by the DWP is incompatible with the FOIA as it consisted of the author's personal opinion rather than the requested information. In order to be compatible with the FOIA any response must provide the requested information, cite one of more statutory exemptions or state that the information is not held.

The DWP always requires consent to process a personal data of any kind and attempting to play silly word games about not requiring consent to pay benefits is unhelpful. It is also factually incorrect as there is an implied consent that benefits will be paid if the person satisfies the requirements for each particular benefit.

Returning to the matter at hand of the DWP not having consent to disclose to a claimant's or anyone else's bank that the claimant is in receipt of a benefit.

Schedule 1 Part 1.1 of the DPA states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

- (a) at least one of the conditions in Schedule 2 is met, and*
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.*

Schedule 2 states:

- 1 The data subject has given is consent to the processing.*

Schedule 3 states:

- 1 The data subject has given his explicit consent to the processing of the personal data.*

As the author of the original response correctly identified sensitive personal data is defined in Part 1 Preliminary S.2 of the DPA as:

Sensitive personal data.

In this Act "sensitive personal data" means personal data consisting of information as to—

- (a) the racial or ethnic origin of the data subject,*
- (b) his political opinions,*
- (c) his religious beliefs or other beliefs of a similar nature,*
- (d) whether he is a member of a trade union (within the meaning of the M1TradeUnion and Labour Relations (Consolidation) Act 1992),*
- (e) his physical or mental health or condition,*
- (f) his sexual life,*
- (g) the commission or alleged commission by him of any offence, or*
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.*

Point (e) clearly defines that sensitive personal information includes anything that covers the physical health, mental health or specific medical condition of the data subject.

By supplying the initials of any sickness/disability related benefit, such as ESA, DLA or PIP, to any bank the DWP is clearly notifying said bank that their customer has physical or mental health related illness(es) that are sufficiently serious to warrant payment of such benefits.

Given that vilification of people on benefits has increased dramatically in the media over recent years it is not unreasonable that people claiming benefits would not wish people, other than those they have told and trust, to know.

It is perfectly clear that under the DPA the DWP requires the consent of the claimant to tell their bank that they are in receipt of a specific sickness/disability related benefit. I suggest that it is also clear that such information is 'sensitive personal information' as defined by the DPA. Therefore, the DWP requires the explicit consent of claimants to pass on this information.

You can expect a reply by 2 February 2015 unless we need to come back to you to clarify your request or the balance of the public interest test needs to be considered.

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

Yours sincerely

**Official Correspondence Team
People, Communication and Capability Division**

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-requexx@xxx.xxx.xxx.uk or by writing to DWP, Central Fol 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

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