

Department for Work and Pensions (DWP)
Central Freedom of Information Team

freedom-of-information-request@dwp.gsi.gov.uk

Our reference: VTR IR322

Date: 2 July 2015

Dear M Boyce,

Thank you for your Freedom of Information (Fol) internal review request received on 10 June 2015. You asked:

"I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'DWP misleading the Work and Pensions Select Committee.'

Here we go again, the DWP being obstructive and evasive.

In your response you state the following:

'..I should explain a little about the FOIA. The act concerns the provision of RECORDED INFORMATION held by public authorities such as DWP'.

Yes, I agree, but I didn't need you to tell me that - I already knew that.

Then you state:

'the Act does not require that we create new information.' This is correct. But then you also say 'or require us to generate answers to questions.' On the last point you are wrong.

You also state:

'Therefore, if a request is made in the form of a question, we provide the recorded information already held that answers the question.' No, no, no. You clearly need educating on these matters, so I will helpfully put your muddled ideas on the FOIA right.

I suspect that you may not have heard of Section 16 of the FOIA 2000, so I'll enlighten you.

16. Duty to provide advice and assistance:

'It shall be the duty of a public authority to provide advice and assistance, so far as it would be REASONABLE to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.'

You clearly think it is unreasonable to provide a simple yes or no answer to a question about RECORDED information. Well, you would, wouldn't you?

The ICO are likely not to agree with you. In fact in the ICO guidance on FOI requests they state:

'..this doesn't prevent you providing answers or explanations as well.' And

'You should normally be able to explain to the requester the nature of the information, or provide further information to put the information into context.'

I also telephoned the ICO today and asked them specifically if an authority can simply refuse to answer questions. They said an authority should not do so.

Now, stop playing games and just answer the questions I asked, or you will be compelled to do so by the ICO - your choice.

Please deal with this supplement as part of your Internal Review of my FOI request above.

Looking through your response again, you not only fail to answer my specific questions, but the recorded information that you have supplied to try to 'answer' my questions is mostly completely inapplicable and irrelevant.

My FOI request was clearly about JSA disentitlement following a claimants failure to attend a Work Coach interview, and subsequently not getting in touch with the jobcentre within 5 working days. You then send me recorded information on not just JSA, but also ESA and the Work Programme. Why? That is utterly irrelevant. You then try to force a square peg (ESA and Work Programme) into a round hole (JSA disentitlement). Why?

To summarise:

You refuse to answer my specific questions with simple yes or no answers.

You send me mostly irrelevant recorded information.

You try to mislead me by then attempting to 'answer' my questions with answers to questions that I have not asked about ESA and the Work Programme.

You really have got some proper explaining to do”.

DWP Response

In response to your request, I can confirm that the handling of your original request and response provided has been appropriately reviewed by someone unconnected with the handling of your original request.

I am content that your original request was dealt with in accordance with DWP guidelines for FOI requests. The information previously supplied is that held that best answers your questions..

However, in response to questions 1 and 2, it would have been helpful to also send you a copy of the ES48S letter and ESL48JP which are given to claimants when a doubt has been identified. These are attached at Annex 1 and Annex 2. I apologise for not sending these to you previously.

In relation to questions 3 and 4 in FOI 2002, the only information held on checks regarding vulnerable claimants was sent to you previously in Annex 3 and covers Employment and Support Allowance claimants only.

The answer to question 5 in FOI 2002 was covered in the guidance sent to you in Annex 1 of the original reply, entitled 'Failure to Attend Interviews and Jobsearch Reviews'.

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

Yours sincerely,

DWP Central Fol 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-request@dwpgsi.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.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745