

DWP Central Freedom of Information Team

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IR2019/00242

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IR2019/00263

IR2019/00264

Date: 29 January 2019

Dear Langton

Thank you for your Freedom of Information (Fol) internal review request received on 3 January. You asked:

I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Equalisation of State Pension Age 1950's Women'.

I am not happy not happy with your response I wish to request an internal review

The DWP had said:

Whether a request is vexatious is assessed with reference to all the circumstances of an individual case. In this case, the Department is treating the following requests as vexatious:

FOI 2018/02420

FOI 2018/04464

FOI 2018/04488

FOI 2018/04727
FOI 2018/04876 FOI 2018/06401
FOI 2018/07320
FOI 2018/07295
FOI 2018/09010
FOI 2018/09022
FOI 2018/09014
FOI 2018/09018
FOI 2018/10157
FOI 2018/10158
FOI 2018/10172
FOI 2018/11226 FOI 2018/11478
FOI 2018/12314

The DWP had also said:

DWP accepts that meeting our commitment to transparency and openness involves absorbing a certain level of disruption and an administrative burden. However, the number and frequency of your requests, as well as the “scattergun” nature of them, the lack of clarity in terms of what recorded information they are trying to obtain, the fact that they often overlap - requesting information already in the public domain as well as information we have already provided, and also that each response only seems to result in further requests, suggests to the Department that there is no clear objective to them.

I feel that you have not taken into account any of the above my requests and the reasons I have listed below, that’s why I wish to request an internal review as the Department is treating the following requests as vexatious:

The DWP have said it’s a as the “scattergun” nature of them and also the DWP had said the lack of clarity in terms of what recorded information they are trying to obtain, , all of my FOI’s has a heading as Equalisation of State Pension Age 1950's Women which is a clear indication of what the overall subject is about, with regards to the clarity of what recorded information is I am trying to obtain how do I know what recorded information the DWP have on file? Many of my questions do ask what I require, the nature of my requests are very clear to obtain information from the DWP.

I had followed all my FOI with detailed information with references in order that the DWP could give an appropriate answer; all I was trying to do is get to the recorded truth, I strongly refute what the DWP had said “the lack of clarity in terms of what recorded information they are trying to obtain” you cannot say my FOI lack clarity or indeed what recorded information I was trying to obtain, my questions in my FOI which you have class as vexatious are precisely set out and it was the DWP who I asked for recorded information, if you could not supply the requested information you should have responded to my FOI appropriately at the time of each FOI’s and not grouped them after failing to keep to the correct response time.

The DWP did fail in the legal requirements to answer my individual FOI in the timely manner, if the DWP had responded to the correct time scales then I would have received a response to each of my FOI over the three months.

The DWP also failed to respond to the individual Review requests that I had to also send in order for the DWP to take action to the failure of keeping to the FOI response times, because of this second failure by the DWP of not responding it led to a accumulation of outstanding FOI from me as an individual, I kept to the lawful manner and the DWP did not.

The DWP had also failed to keep me updated of my outstanding FOI's which is also against the Legal requirements of the FOI's.

It is very clear that the DWP had been instructed not to reply to my FOI's, the only way out for the DWP was to clear my outstanding FOI was to class them as vexatious, if my FOI's were classed as vexatious why was they not given individual vexatious responses when I sent them as a Lawful request? The DWP must have given their ruling at the point of each of my requests as the content has not altered, this is a case of acting against myself not at the individual requests.

It seems to me all my FOI's were held back by the DWP and I think it was because a high court judge has granted a judicial review to determine whether recent increases to women's state pension age were lawful 30/11/2018.

From the Dealing with vexatious requests (section 14) Frequent or overlapping requests it says:

The requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

The DWP had said: the fact that they often overlap, the subject matter that is within my FOI is the same subject matter that links many of my FOI, however each of my requests have been sent in good faith awaiting a response, if they do overlap I should be told by the DWP each and every time, but the DWP had failed to respond in the Legal Time to my requests and did not update me to this fact.

The DWP had said the requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

This cannot be right as all of the FOI's that you have classed as vexatious and the DWP had the opportunity to address my earlier enquires but as allredy outlined to you the DWP had missed all the Lawful time period in which they should have responded.

All of my FOI were sent in a timely manner, it was the DWP who had not responded in the timely manner missing the lawful time period, indeed on many occasions an apology was often given by the DWP by missing the FOI response time, the DWP had said, the fact that they often overlap - requesting information already in the public domain as well as information we have already provided, this is not true I had none overlapping other than asking for a review as the DWP was slow in response time it was the only way that I could obtain my request, also on many FOI that I had requested and the DWP had not kept up to the Lawful period of response, the DWP had said that they would learn from the mistakes on previously FOI's when they had failed to respond to my FOI's, but the DWP had not learnt otherwise they would have kept to the Lawful response periods.

If the DWP had kept to their promises I would have received them instead of the batch which you have places as vexatious.

You have placed 18 of my FOI as vexatious and at a moment stroke cleared all of them without responding or gave me an opportunity to

From Under section 14(1) of the Act, public authorities do not have to comply with vexatious requests. There is no public interest test, I disagree that my FOI do have a public interest, as it relates to the Public as well as me.

You have said that

This being the case, public authorities should not regard section 14(1) as something which is only to be applied in the most extreme circumstances, or as a last resort, I cannot understand why the DWP had used 14(1) as a last resort or in the most extreme, I have under covered DWP major mistakes and many has been confirmed by the route of FOI, I have always had a response from the DWP without any signs or indeed of not keeping to the rules, my FOI request has not altered or changed its format, the DWP had said, "and also that each response only seems to result in further requests, suggests to the Department that there is no clear objective to them" this is untrue if the DWP gives a response it only uncovers further information in which a further request is instigated, as to the DWP said I have no clear objective to them is totally wrong, its not for the DWP to dictate my objectives its for them to supplied information.

The DWP have a clear knowledge of my Past FOI's in which I have had responses and the DWP is fully aware of my unearthing wrong information which is subject to Public Interest, and to class all of my request as vexatious is wrong and ask you to reconsider your action, its not my fault that the DWP had failed to answer my FOI's in the Lawful manner as I did keep within the time scales.

As an individual I had a greater right of access to official information with the intention of making public bodies more transparent and accountable, I have discovered failures in the DWP which have been recorded in previous FOI, and have found major discrepancies in dates and times that the DWP had said an action had occurred which are on record within my FOI which you have said are vexatious, the DWP had buried this information by acting out section 14(1).

Some of my FOI information would become most embarrassing if confirmed to the DWP and higher ranks in Government, it seems that all my FOI were held back due to a judicial review in November 2018, I feel that the DWP was told to hold my FOI subject to the judicial review.

The DWP had said in the response that Parliament has published several comprehensive briefing papers many parliamentary debates to which government minister have responded, ministerial statement as well as responses to written and oral parliamentary questions.

Yes the DWP is right that much has been reported, it was what was reported which is different to what is often on record that I have questioned and the DWP has blocked me if finding out the Truth.

You had said in your response letter that whilst we accept that the requests relate to some issues in which the General Public has a legitimate interest, I feel that due to the failure of the DWP in responding to my FOI's in the correct time frame you have blocked some issues that would embarrass the DWP.

DWP Response:

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

I have summarised what I believe to be the main grounds under which you are asking for a review as follows:

1. You state your intention to make DWP “more transparent and accountable” through the FOI process
2. You believe DWP is using Section 14(1) of the FOI Act 2000 to ‘bury’ information that would embarrass it “and higher ranks in Government”
3. You disagree with the Department’s description of your Freedom of Information (FOI) requests as “scattergun”; state that there is a clear request for information in each of your requests and “refute [that there is a] ‘lack of clarity in terms of what recorded information [you] are trying to obtain”
4. You believe the Department should have responded to the 18 requests listed in its letter of December 2018 individually rather than via one letter.
5. You criticise the Department for failing to respond to your FOI requests within the timescales set out within the Freedom of Information Act 2000.
6. You state your belief that the Department has held back responses to the 18 requests listed in its letter of December 2018 because a judge has granted a judicial review on matters relating to the increase in women’s State Pension age from the Pensions Act 1995.
7. You state your belief that “it is very clear that ... DWP had been instructed not to reply to my FOI’s [and therefore] the only way out for the [Department to] clear my outstanding FOI[s] was to class them as vexatious”.

As a result of this review I am satisfied that the original response was handled properly and that the outcome of your requests was correct. The reasoning behind this decision is as follows. I shall deal with each of the above points in the same order in which they are listed above.

1. I believe that the Department for Work and Pensions has been “transparent and accountable” within the rules and spirit of the Freedom of Information Act 2000. And, having reviewed your 44 FOI requests I can see that wherever possible, DWP staff have provided answers to your requests for information. Where staff have not provided answers in your first 26 requests it has been for one of three reasons:
 - a. Because they estimate that the cost of complying with your request would exceed the appropriate limit of £600. As you know, this is the appropriate limit that has been specified in regulations for central Government and it represents the estimated cost of one person spending 3½ working days in determining

- whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with such requests.
- b. Because, while the Freedom of Information Act can give you a right of access to recorded information held by DWP, the Department does not have to provide opinions or explanations, generate answers to questions, or create or obtain information that it does not hold.
 - c. Because the Department is, under Section 14(2) of the Freedom of Information Act, under no obligation to answer identical or substantially similar requests made by the same person.

I can see that the Department has given you these reasons on several occasions previously.

- 2. I have seen nothing to support the allegation that DWP is attempting to bury embarrassing information. Where the information is available, the Department has given you it. Where it is not available; where it cannot be provided without exceeding the appropriate cost limit; where it has already been provided in a substantially similar request; or where the request has been vexatious within the terms of the FOI act, the Department has explained this to you.
- 3. You claim there is no lack of clarity in your requests. I have seen multiple examples of unclear questions in your Freedom of Information requests.

For example, in FOI2018/09014 you ask:

“Was this leaflet given to Women only or was this leaflet given to men as well, what was the message in this leaflet would it have information of the 1995 Pension Act? Which only affected Women.”

In FOI2018/09018 you ask:

“The DWP had said “We did not want to advise women of their individual State Pension age under previous legislation until “. I would like to see what the DWP advise the women who were born from date of birth 6 Apr 1953 to 5 Apr 1960 of their individual State Pension age under previous legislation, what direct response did the DWP undertake after holding back the letters prior to the changes to the 2011 Pension Act, with regards to inform of the previous legislation in which the DWP did they supply any information with regards to the 1995 Pension Act when they wrote to the Women on the 2011 Pension Act what details did they send?”

- 4. The Department has considered all of the 18 requests individually and considered each to be vexatious under the terms of Section 14(1) of the Act. Having done so, it is not obliged to answer them individually.
- 5. I can see that the Department has already apologised where it has failed to meet its obligations to respond to you within the limits set by the Freedom of Information act. I am happy to apologise once again. However, I believe the volume, length and nature of your requests should be taken into account when considering the timeliness of the

Department's responses.

6. My review has found that the pending judicial review against the Department had no bearing on its response to your 18 vexatious requests overall.
7. My review has found no indication at all that anyone has tried to instruct DWP not to respond to your 18 vexatious requests. On the contrary, I can see that the Department's staff have been at pains to provide you with helpful information in the past, and to point you to publicly held information where it has been available. I expect that to continue in the future and emphasise that under Section 14 of the Freedom of Information Act it is the request that is held to be vexatious, not the person. You can expect a full and timely response to any future Freedom of Information request you may make where there is information that can be provided within the terms of the Act.

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

Yours sincerely

Policy Group Fol Team

Your right to complain under the Freedom of Information Act

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
https://ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745