

DWP Central Freedom of Information Team
e-mail: freedom-of-information-request@dwpgsi.gov

Our Ref: Fol 4792

Date: 8 December 2017

Dear Mr Evans,

Thank you for your Freedom of Information request of 10 November 2017. You asked:

Please explain in legal terms how the dwp can contravene the Data Protection Act by mandating work and health programme participants to use in house provider job search engines against their will or without their consent. Surely the dwp must act within the law at all times and therefore cannot ignore the protections afforded to participants of the scheme by the aforementioned act.

DWP and its Work and Health Programme (WHP) Providers have a legal power to mandate long term unemployed customers to the WHP under Section 2(2)(b) [8C] of the ***Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) (Amendment) Regulations 2017 No. 1020***.

These Regulations give DWP and its Providers the authority to “assist a claimant who is long term unemployed in which, for a period of up to 456 calendar days, the claimant is given such support, and required to participate in such activity, as the provider of the WHP considers appropriate and reasonable in the claimant's circumstances to assist the claimant to obtain and sustain employment”. The legislation therefore allows DWP and its Providers to mandate the long term unemployed to the WHP.

DWP and its Providers ensure that processing of personal data is carried out lawfully and fairly and is in accordance with the principles set out in the Data Protection Act 1998 (DPA). The DPA 1998 requires particular conditions for processing personal data to be met under Schedule 2 and 3 of the Act and consent can be one such condition.

The Department in the case of the WHP is not relying on consent as a condition for processing, and instead relies on the provisions found in Schedule 2 and 3 of the DPA which state that the processing is *necessary for the exercise of any functions conferred on any person by or under any enactment and necessary for the exercise of any functions of the Crown, a Minister of the Crown or a government department*.

Finally, we refer you to the DWP Personal Information Charter that sets out the Department's fair processing policy. Please visit <https://www.gov.uk/government/organisations/department-for-work-pensions/about/personal-information-charter> for further information.

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

Yours sincerely,

DWP Strategy 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@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