



Department
for Work &
Pensions

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Ref No: FOI IR497

Dear Mr Slater,

Thank you for your Freedom of Information request received on 22 October 2018. You asked for:-

Thank you for your late response. Given that S.31 consists of 3 subsections and 19 paragraphs I suggest that the DWP needs to be most specific if it wishes to engage one of more of the exemptions contained within S.31.

In respect of S.24 the Department hasn't made any attempt set out a clear basis for arguing that disclosure would have an adverse effect on national security. Without doing so the exemption cannot be engaged.

Whichever subsection of S.31 that the DWP eventually settles upon requires it to satisfy the prejudice test. Its response to date doesn't come close to satisfying that test and therefore I suggest that none of the respective subsections of S.31 can be said to be engaged.

I now move to the public interest test. The binding Upper Tribunal judgment in Department of Health v ICO & Lewis [2015] UKUT 159 (AAC) is clear that any public interest test must be approached on a contents, specific information, basis and not a class basis. The Department public interest test fails to do this and therefore its engagement of S.24 and S.31 is flawed.

I also say that its response of 17 April 2018 (Ref No: FOI 784) is sufficiently similar to its current response to show that generic "boilerplate" responses are still being used by the Department despite being warned by the ICO previously that this isn't good enough.

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

As a result of this review I can confirm that the specific part of section 31 of the Freedom of Information Act that is engaged is section 31 (1)(a) relating to the prevention and detection of crime. The reason that this exemption is engaged is that the information requested would be likely to help to enable perpetrators with ill-intent to deduce whether or not DWP is aware of all issues/bugs for LiMA

and as such they may attempt to create issues/bugs or try to view or compromise data which may include personal or payment information. The Department takes the security of its information technology systems and the information held on them very seriously and has layered protections in place: withholding such details from the public domain is one such layer in our security defences.

The prejudice test applied when engaging the exemption in section 31(1)(a) is not limited to the harm that could be caused by the requested information on its own. The department has taken account of harm likely to arise if the requested information were put together with other information in the public domain, or which the department is forced to place in the public domain in future. This is known as the “mosaic effect”.

With regard to the application of the exemption in section 24 of the Act, “national security” means the security of the United Kingdom and its people. The interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people. The protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence. In engaging the exemption the department has considered the significant risk that cyber-attacks on IT systems which administer benefits payments and taxation could seriously disrupt the lives and wellbeing of virtually the entire population of the UK.

I accept that the original response should have set out which sub-section of Section 31 applied and it did not, otherwise I am satisfied that your response was handled properly and the outcome of your request was correct. The reasoning behind this decision is as follows: the Department may hold the information you have requested; however, the Department would withhold any information on the basis of the provisions contained in Sections 31 and 24 respectively. Section 31 and 24 are qualified exemptions, and as such, a public interest test needs to be applied. Whilst there is a legitimate public interest in knowing that the Department holds personal data on claimants, that this data is held only for legitimate purposes, and that an individual may seek confirmation of the nature of that data under the Data Protection Act; it is not in the public interest for the Department to provide information on such data to a wider audience, because this may help to enable perpetrators with ill-intent to attempt to devise a means of accessing this data. A perpetrator who understands the structure of our databases and the relevant information fields may be able to write queries against them and attempt to remove or compromise data which may include personal or payment information. The Department takes the security of its information technology systems and the information held on them very seriously and has layered protections in place: withholding such details from the public domain is one such layer in our security defences. To provide such information is not in the public interest, and therefore we are withholding the information in accordance with Section 17 of the Act.

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

Yours,

DWP Digital, Parliamentary Business Focal Point

Your right to complain under the Freedom of Information Act

If you are not content with the outcome of an internal review you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally the ICO cannot make a decision unless you have exhausted our own complaints procedure. The ICO can be contacted at: Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745