

To: John Slater
request-375869-189100a8@whatdotheyknow.com

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: IR8

30 January 2017

Dear Mr Slater,

Thank you for your email requesting a review of the Department for Work and Pensions (DWP) response dated 3 January 2017, reference FOI 4662.

In your email you state:

'I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'PIP Contracts - Management Information Reports'.

Thank you for your response which implies that some of the requested information may be held by the Department. Where the information requested covers a range of dates such as this RFI the Department is still required to disclose what is held. For example if it doesn't hold information covering the month of December it must disclose the information for January to November.

I remind the Department of the case "Common Services Agency v Scottish Information Commissioner (Scotland) [2008] UKHL 47 (9 July 2008)" Lord Hope (approving Lord Marnoch) stated that FOIA should be construed in as liberal manner as possible.

Section 1(1)(a) FOIA requires the Department to confirm or deny if any of the requested information is held. This means it should have confirmed if the requested information covering any of the specified time period is held. Please do so.

The Department's response is not complaint with the FOIA and could be considered obstructive.

Assuming that the Department does actually hold some of the requested information please disclose it without further delay.'

Please be assured that your request has been given our full consideration and that all aspects of your review were taken fully into account.

Your original request (FOI 4662) asked for information specifically 'for the period January 2016 to December 2016.' The response issued to you on 3 January 2017 advised that the information for that period of time is not held by the Department.

In reviewing the original response I find it to be correct and uphold the decision.

You have now requested that information be provided from January 2016 up to the date that it is held.

I can confirm that the information that you have requested is held however the Department has decided not to disclose this information in accordance with Section 43(2) of the Freedom of Information Act 2000; this exemption covers Commercial Interests.

Section 43 (2) of the Act provides an exemption from disclosure of information which would, or would be likely to, prejudice the commercial interests of any person (including those of the PIP assessment providers and other businesses).

A commercial interest can arise in a number of different circumstances. However, in broad terms, a commercial interest relates to any person's ability to buy or sell goods or services or to operate effectively without undermining its trading position.

In considering the exemptions at section 43(2) we have considered the balance of the public interest arguments for and against disclosure. We recognise that there is a public interest in transparency and accountability in public decision making.

We have also considered the public interest in maintaining the exemption in this area. We believe that there is a strong public interest in ensuring that the general commercial negotiations process being undertaken by both assessment providers is not compromised by the release of this information. Taking the likely prejudice outlined above into account, we are satisfied that the public interest in withholding the requested information in this respect outweighs the public interest in disclosure.

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.

Yours sincerely,

DWP Central 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
www.ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745