

5 August 2020

**ICO case reference: FS50895369**

Dear Charlie Halsey,

We have received a letter from the Information Commissioner asking us to review our handling of your Freedom of Information request dated 27 September 2019 under the reference above.

Your request was as follows:

*“When the Department's Hub Strategy was introduced in approx 2017; staff were expected to work from a designated office location. How did you apply the Public Sector Equality Duty, in relation to 'working from home' requests, particularly for parents, carers and staff with a disability that impacts their ability to travel to work? What information do you hold, what advice was sought and what legal advice, information was given regarding DWP's Public Sector Equality Duty towards their staff?”*

We originally responded to your request on 23 October and subsequently reviewed the response under reference IR2019/39796 dated 19 November. The Information Commissioner's Office has asked us to look into our handling of the request and as a result of this we now wish to alter our original response.

**Revised DWP Response**

I can confirm in accordance with s1(1) of the Freedom of Information Act 2000 (the Act) that we hold information within the scope of your request. The information that we hold is as follows:

- Corporate Centre Equality Analysis,
- Advice from the Government Legal Department (GLD) regarding the Public Sector Equality Duty (PSED) in relation to the Corporate Centre Equality Analysis
- Site level Equality Analyses
- Exemption Panel evidence, discussion notes and decisions

Subject to redactions to remove names, which are exempt under s40(2) as personal data belonging to an individual other than the requester, we are releasing this document in response to your request. You will find a copy attached to this email.

In relation to the legal advice obtained from the Government Legal Department (GLD) I can confirm that, as per our Internal Review

IR2019/39796 of 19 November 2019, we are not disclosing this information as it is subject to Legal Professional Privilege under s41(1) of the Act

As we stated in the Internal review, in considering the Public Interest Test, we consider that there is a public interest in disclosing legal advice to ensure that transparency of the decision making process is maintained and that the public can be assured that legal advice is properly taken into account in decision making.

There is however an overriding public interest in ensuring that legal communications between the department and its legal advisers can be conducted openly and that the department receives full and frank legal advice which is of itself a requirement for the administration of justice.

In relation to the Site Level Equality Analyses, we are withholding this information under s14(1) of the Act as to provide this information would impose a disproportionate burden on the department. This is because a site level analysis was undertaken for each site within scope of the programme. Each of these documents contain information relating to the individual circumstances pertaining within each site. Due to the nature of the considerations, this included extensive personal data relating to individuals throughout the documents and the burden imposed upon us by redacting each document to avoid breaching Data Protection principles would be excessive.

We are exempting the Exemption panel information on the basis of both s41(1) and s40(2) of the Act. Exemption panel evidence was provided in confidence by members of staff during a one to one conversation with their line manager. Members of staff had a reasonable expectation when providing this information that it would be used for the purposes of the exception panel only and held in confidence.

In addition, the information held relating to exceptions panel, including the evidence, advice from HR Professionals, including on the application of the equality duty and the final decisions are personal details relating to a third party within the meaning of s40(2) of the Act.

In consideration of the public interest test, we do not consider that disclosing this information is justified in order to satisfy your information request, especially in consideration that the information includes sensitive personal data. In relation to this request, we consider that there is no strong legitimate interest that would override the prejudice to the rights and freedoms of the data subject.

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

Yours sincerely,

People and Capability Freedom of Information 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@dwf.gov.uk](mailto:freedom-of-information-request@dwf.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

Web: [ico.org.uk/Global/contact\\_us](http://ico.org.uk/Global/contact_us) or telephone 0303 123 1113 or 01625 545745