

7 July 2016

Dear Mr Slater

Thank you for your email requesting a review of why the Department for Work and Pensions (DWP) has not yet responded to your earlier request received 25 April 2016 reference FOI 1652.

In your email you asked to be provided with information answering the following questions:-

"I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Service Requirements (WCA outcome report) - Contract with CHDA Limited'.

S.10(1) FOIA states that the Department must comply with section 1(1) of the Act "...promptly and in any event not later than the twentieth working day following the date of receipt."

This means that when it is not relying on a part II exemption and does hold the requested information, it will need to both issue the requester with written confirmation of this and provide the information promptly, and within 20 working days, in order to comply with its obligations under s.10(1).

If the Department is not relying upon a part II exemption and does not hold the information then its only requirement under s.10(1) will be to inform the requester of this in writing promptly and within 20 working days.

It also follows that a general response (such as a holding letter or acknowledgement) issued within 20 working days, but which fails to confirm or deny whether the information is held, or provide information, will not be sufficient to comply with the requirements of s.10(1).

Therefore as the Department has failed to provide a response no later than the twentieth working day following receipt it is now in breach of s.10(1).

It is common for the Department to justify its failure to comply with S.10(1) by citing s.10(3), the need for an extension to consider the public interest. This is a flawed argument as explained by the Commissioner in his published guidance:

"As section 10(3) only permits extensions for further consideration of the public interest, the additional time cannot be used to determine whether the exemptions themselves are engaged. 64. This means that the authority should have identified the relevant exemptions, and satisfied itself that they are applicable, within the initial 20 working day time limit."

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

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 the original request.

Your request 'Service Requirements (WCA outcome report) - Contract with CHDA Limited' (Fol 1652) was received by the Department on 25 April 2016.

The Freedom of Information Act allows 20 working days from date of receipt of the request in which to respond. We endeavour to answer promptly and no later than the 20 day deadline, unless the deadline is extended to consider if an exemption applies.

The 20 working day deadline for the request was 24 May 2016 and I note that this was not met. In this instance, the Department failed to respond within the 20 working days and I apologise for the delay. Your internal review request is therefore upheld.

The Department has now also issued you a letter dated 23 June 2016 in response to FOI 1652.

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.

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

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