

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 April 2019

Public Authority: Department for Work & Pensions
Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant requested a variety of information about the Child Maintenance Service.
2. The Commissioner's decision is that the Department for Work & Pensions ("the DWP") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner does not require any further steps to be taken.

Request and response

4. On 26 October 2018, the complainant wrote to the DWP to complain about the way it was handling his Child Maintenance payments. As part of that letter, he also requested information in the following terms:
 - "[1] Please can you advise me if the Child Maintenance Service (CMS) has direct access to the records of the Childs Benefits Office?
 - [2] Please provide me with a full and complete file of all correspondence (written or otherwise) which has a reference to myself where your organisation is concerned.
 - [3] Please provide me with a full and complete file of correspondence (written or otherwise) which has a reference

to my daughter [name redacted] where your organisation is concerned.

[4] Please advise me of the full name and company address of your Chief Executive Officer

[5] Please advise me of your complaints and appeal procedure.

[6] Please advise of the ombudsman (or other) service that independently oversees your service."

5. The DWP did not acknowledge the correspondence and did not issue a substantive response until 19 March 2019.

Scope of the case

6. The complainant contacted the Commissioner on 13 February 2019 to complain about the failure, by the DWP, to respond to the request.
7. At the time of the complaint, it was unclear whether the DWP had in fact received the request as it had been posted to a central mail handling site for the Child Maintenance Service (which is part of the DWP) and not acknowledged. In line with her usual practice, the Commissioner contacted the DWP's central FOI team on 6 March 2019 to highlight the outstanding response. She requested that the DWP respond to the request within 20 working days.
8. The complainant subsequently contacted the Commissioner on 13 April 2019 to request a decision notice considering the DWP's compliance with the FOIA.
9. The scope of this notice and the following analysis is to consider whether the DWP has complied with section 10 of the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

11. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

14. When the complaint first came to the Commissioner, there was no definitive evidence that the original request had been received by the DWP or when that had happened. However, the Child Maintenance Service wrote to the complainant on 6 March 2018, in response to his service complaint, admitting that the original letter of 26 October 2018 *had* in fact been received and should have been forwarded to the appropriate information access team. The Commissioner is therefore satisfied that the original letter was received on or around 26 October 2018.

15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the DWP has breached section 10 of the FOIA.

Right of appeal

16. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF