

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 November 2022

Public Authority: Department for Work and Pensions

Address: Caxton House
Tothill St
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant requested information from the Department of Work and Pensions (DWP) about how the DWP use personal information and how they comply with their personal information charter.
2. The Commissioner's decision is that the DWP breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days. No steps are required.

Request and response

3. On 10 August 2022, the complainant made the following request for information:

"[name redacted], Please ensure you appoint someone with the authority and qualifications to identify and supply the information required under the charter points in bold copied below.

"If we process your personal information, we will:

- **make sure you know why we need it** - Why do you need a copy of an audio recording that plays no part in the assessment process?
- **only process the personal information we need** - In what way is the audio recording "Processed"
- **make sure nobody has access to it who should not** - Since my medical information is personal only to me and the audio

recording of my consultation is mine alone with only my permission to share being allowed, your contract staff and DWP employees have no right to access any such recording and so why are you allowing and writing policy which requires the disclosure of this information to staff who should not have access to it by law?

- **keep it secure** - Where is it kept and for what purpose and for how long.
- **tell you through this charter or in other ways if we share it with other organisations**
- **ask you to agree to us sharing your information where you have a choice** - The choice to share this information resides with me as the Data Subject alone, as specified in UK law and the ECHR legislation, and yet the DWP has not asked for my agreement but demanded my agreement in breach of UK Law and ECHR legislation committing criminal harassment against me under UK law whilst denying I have any choice in the matter, so please do explain just how your charter allows this?
- **only keep it for as long as we need to** - Since the audio plays no part in the assessment process there is no "NEED" for the DWP to have any copy let alone keep a copy for any period of time so again please clarify.
- **not make it available for commercial use (such as marketing) without your permission**

If we ask you for personal information, you need to:

- give us accurate information
- tell us as soon as possible if there are any changes, such as a new address, when you start work or earn more

This helps us to:

- keep your information accurate and up to date
- pay you the right amount of benefit
- provide the best possible service

If you do not tell us about changes that affect any benefit that DWP is paying you, you may be prosecuted or other sanctions applied.

Data protection principles

We will always comply with data protection law. This says that the personal information we hold about you must be:

1. **used lawfully, fairly and in a transparent way** - The demand for an audio recording in breach of the DPA ECHR legislation and your own charter clearly breaches this principle entirely.

2. **collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes** - There is no valid purpose for obtaining or keeping an audio recording of a claimants WCA interview as it is not used within the lawful process specified and is demanded in breach of multiple laws which specify that your demand is criminal constituting unlawful harassment under the protection from Harassment act.

3. **relevant to the purposes we have told you about and limited only to those purposes** - Not relevant and apparently unlimited as there is no specified use for the unlawful recording and no limitation.

4. **accurate and kept up to date**

5. **kept only as long as necessary for the purposes we have told you about** - You refuse to specify a purpose and fail to provide any reason for the requirement let alone a retention period.

6. **Kept securely.** - Please do tell where these audio recordings are kept, who is responsible for them and how long they are retained for and where in your published data management information this information is located?

What DWP uses personal information for

DWP collects information to deal with:

- social security (this includes benefits, grants, loans, pensions and Housing Benefit)
- child maintenance
- the investigation or prosecution of offences relating to tax credits and benefits
- prevention and detection of fraud, and protecting public funds
- employment and training
- promoting financial planning for retirement

- policy relating to occupational and personal pension schemes
- research and analysis into matters listed above

Please do specify which of the above bullet points applies to the unlawful unnecessary and illegal audio recordings of DWP WCA interviews held by the DWP.”

4. The DWP responded to the request for information on 2 November 2022.

Scope of the case

5. The complainant contacted the Commissioner on 13 September 2022 to complain about the DWP’s failure to respond to their request within the statutory time frame of FOIA.
6. The Commissioner has considered whether the DWP has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

7. Section 1(1) of 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.”

8. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
9. From the evidence provided to the Commissioner in this case, it is clear that the DWP did not deal with the request for information in accordance with FOIA. The Commissioner finds that the DWP has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

10. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

11. 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.
12. 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

Michael Lea
Team Manager
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