

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 July 2018

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

Decision (including any steps ordered)

1. The complainant requested copies of contracts held with various DNA testing services.
2. The Commissioner's decision is that the Department for Work & Pensions ("the DWP") did respond to the request within 20 working days and has not therefore breached Section 10 of the Freedom of Information Act ("the FOIA"). She also finds no breach of either Section 11 (Means of Communication) or Section 16 (Advice and Assistance) of the FOIA in the way that the DWP handled this request.
3. As a result, the Commissioner does not require the DWP to take any further steps in relation to this request.

Request and response

4. On 22 May 2018, the complainant wrote to the DWP and requested information in the following terms:

"Please provide a copy of the commissioned publicly funded contract, full service specifications, full fiscal contract value, Key Performance Indicators, length of said contracts in annum, date of commencement of contracts and current existing contract and all monitoring of said contracts as detailed on your fact sheet CROWN COPYRIGHT CMSB030GB ISBN: 978-1-78153-771-8 provided with letters, between:

"DWP CHILD MAINTENANCE SERVICE AND

- *ORCHID CELLMARK CELLMARK.CO.UK*
- *ALPHA BIO LABORATORIES LTD*
- *ANGLIA DNA SERVICES LTD*
- *BARTS AND THE LONDON QUEEN MARY UNIVERSITY OF LONDON*
- *COMPLEMENT GENOMICS LTD (TRADING AS DADCHECK)*
- *DDC LABORATORIES, INC*
- *EUROFINS MEDIGENOMIX GMBH*
- *GENETIC TESTING LABORATORIES INC (TRADING AS GENETIC TESTING LABORATORIES LTD)*
- *KEY FORENSIC SERVICES LIMITED*
- *IGC LIMITED*

"Thank you."

5. The DWP issued a response to the request on 6 June 2018. It stated that it held a contract with only one of the listed companies. It provided some information and included a link to a .zip file in which the remaining information could be found, along with guidance to allow the requested information to be located more easily within the overall file.
6. The complainant contacted the DWP again on the same day and requested some clarification over aspects of the DWP's response. She also complained that she could not open .zip files and required the information in *"an accessible format to comply with the S20 public sector duty you have under the Equality Act and the FOI Act 2000."*
7. The DWP provided an internal review on 3 July 2018. It provided some further clarity and offered to supply the requested information in hard copy if the complainant were to supply an address to which the files could be posted.

Scope of the case

8. The complainant contacted the Commissioner on 13 July 2018 to complain about the way the DWP responded to her request.
9. In correspondence with the Commissioner's Office, the complainant has stated that she believes that, because the DWP did not supply the information in a format that was readily accessible to her, it did not provide a proper response, to the request, within 20 working days.
10. Having considered the content of the complainant's correspondence with the DWP – as well as that with her own Office – the Commissioner is of the opinion that she needs to consider the timeliness of the response,

the format in which the information was provided and whether the DWP could or should have offered further advice and assistance to the complainant.

Reasons for decision

Means of Communication

11. 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.*

12. 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.*

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

14. Section 11(1) of the FOIA states that:

"Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely—

- (a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,*
- (b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and*

(c) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant,

the public authority shall so far as reasonably practicable give effect to that preference."

15. It is evident from the terms of the request that the complainant did not ask for the information to be communicated in any particular format.
16. Whilst in subsequent correspondence the complainant stated that she wished for the information to be provided in a format that she could access more readily, Section 11 of the FOIA makes clear that any requirements or preferences should be expressed "*on making [the] request for information.*" The onus is clearly on the person making the request to express a preference at the point at which they make their request.
17. The Commissioner therefore considers that the DWP was entitled to supply the information in the format that it did and thus did not breach Section 11 of the FOIA in responding to the request.

Timeliness

18. 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.*"
19. Given that the Commissioner considers that the DWP did issue a response to the request and given that that response was issued on the 10th working day following the date of receipt, the Commissioner considers that the request was responded to promptly. She therefore finds no breach of Section 10 of the FOIA in the way that the DWP responded to the request.

Advice and Assistance

20. Whilst the complainant has not asked specifically for the Commissioner to consider matters pertaining to advice and assistance, given the nature of the correspondence that has passed between the complainant, the DWP and the Commissioner, the Commissioner considers it necessary to provide some further comments on the subject.
21. Section 16(1) of the FOIA states that: "*It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.*"

22. The Commissioner considers that the request for information was clear in terms of the information it was seeking. It would have been unreasonable for the DWP to have sought further clarity before processing the request and the complainant has not provided any prior correspondence with the DWP which might have made the request seem unclear when viewed in context.
23. The Commissioner does not regulate the Equality Act 2010, but she is able to consider reasonable adjustments as part of her Section 16 considerations.
24. As previously discussed, when making the request, the complainant did not advise the DWP that she wanted the information in a particular format, nor did she advise the DWP of the reasonable adjustment she required (or even that she required one). The Commissioner therefore considers that the circumstances in which the request was made were such that there was no indication that further advice and assistance might be necessary and, since responses under the FOIA should, in most circumstances, be applicant-blind, the DWP was entitled to respond in the way that it did.
25. In her correspondence of 6 June, the complainant did make clear that that she required the information in a particular format and that she required a reasonable adjustment. The DWP offered to provide the requested information in hard copy format if the complainant were to supply a postal address. The Commissioner considers that it was reasonable to expect the DWP to provide advice and assistance in response to this correspondence and that the advice and assistance offered was reasonable and appropriate. She therefore finds no breach of Section 16 in the way that the DWP responded to this request.
26. For the reasons outlined above, the Commissioner has therefore been unable to identify any breach of the FOIA in the way that the DWP handled this request.

Right of appeal

27. 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

28. 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.
29. 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