

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 March 2024

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

Decision (including any steps ordered)

1. The complainant submitted a request to the Department for Work and Pensions (DWP) for information relating to decision notice FS50812627.
2. The Commissioner's decision is that on the balance of probabilities, DWP does not hold any information within scope of the request and has therefore complied with section 1(1) of FOIA.
3. The Commissioner does not require further steps, as a result of this decision notice.

Request and response

4. On 25 April 2023, the complainant wrote to DWP and requested information in the following terms. The Commissioner has numbered the parts of the request to align with DWP's response:

"In connection with DN FS50812627, DWP stated that the Department has become aware of data at issue via family or MPS.

1. Here I am asking for a breakdown of data DWP became aware of by the way it became aware of i.e., family, MPs etc. and in two separate tables for prior and post DN FS50812627.
2. Also I am seeking disclosure of details of the manner and changes in how DWP becomes aware of existence of relevant data, any change in how the data at issue is gathered, screened, searched for, and records are produced, retained or archived post DN FS50812627.”
5. On 10 May 2023, DWP asked the complainant to clarify if they were requesting information about the mechanism through which DWP became aware of the suicide of claimants. On 11 May 2023, the complainant responded stating, “any information that shade lights [sic] on how or on what basis DWP handled the data concerning this type of unexpected loss of life and classify or take cognizance of it as a self-inflicted, voluntary loss of life, act of god, suicide, self-harm or other terminology that DWP may have adapted to identify or register sort of instances which may not fit to classic perception of suicide”.
6. A response was provided on 1 June 2023, in which, in relation to question one, DWP confirmed that it does not hold the requested information. In relation to question two, it provided a link to the Tell Us Once service¹ and stated that it becomes aware of the majority of deaths through this service but that it does not notify DWP of the cause or circumstances of a death.
7. Upon receiving this response, the complainant submitted an internal review request on 2 June 2023.
8. After waiting the allotted time for DWP to conduct an internal review, the complainant contacted the Commissioner and their case was accepted, without an internal review.

Reasons for decision

Section 1 (Held/Not Held)

9. Section 1(1) of FOIA states that:
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¹ <https://www.gov.uk/after-a-death/organisations-you-need-to-contact-and-tell-us-once>

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.

10. The Commissioner has sought to determine whether, on the balance of probabilities, DWP holds the requested information.
11. In its initial response, DWP stated that it had interpreted the first part of the request as asking for recorded information in relation to paragraph 13 of decision notice FS50812627²; specifically the number of Internal Process Review cases (IPRs) where the customer's death has been recorded as alleged or confirmed suicide, where an active Counter Fraud Compliance and Debt (CFCD) interest has been recorded, and the means by which DWP became aware of the death, with all data to be split pre and post the ICO Decision Notice.
12. In relation to this, DWP explained that from their introduction in 2015, and up to April 2023, there had been 92 IPR cases where the customer's death has been recorded as alleged or confirmed suicide, but of these there were no IPR cases recorded as having an active CFCD interest, which means that "there is no information that can be provided in relation to how the Department became aware of these cases".
13. DWP explained the difference between the figure quoted above, 92, and the figure quoted in paragraph 13 of FS50812627, 96, as that figure included both Peer Reviews (2012-2015) and IPRs.
14. With regards to the differing figures, the Commissioner asked DWP to further explain why it did not consider those four cases, mentioned in paragraph 13 of FS50812627, as the complainant's request was based on this paragraph.
15. In response, DWP explained that the figure covers the period 2015 (the introduction of IPRs) to April 2023, "a substantially different period to that covered in the decision notice". It further explained that its interpretation of the request was based on the conclusion that the complainant was requesting details of IPRs only.

² <https://ico.org.uk/media/action-weve-taken/decision-notices/2019/2616840/fs50812627.pdf>

16. Furthermore, DWP recognises that its wording, in the initial response to the complainant that "92... is a sub-set of the figures previously provided" is misleading as it infers that "the figure of 92 is wholly part of the 96. This is not the case."
17. In its initial response to the Commissioner, regarding question one, DWP stated that "IPR cases and Fraud Investigation sit on two different systems set up for completely different functions. There is no link between the two and there is no operational need for that link to be formed."
18. In response to this, the Commissioner queried whether it was a case of the information being held, but just not in a retrievable format.
19. DWP then referred the Commissioner back to the original response, provided to the complainant that "there were no IPR cases recorded as having an active CFCD interest". DWP admitted that the initial response provided to the Commissioner, was an error and not the reason why it had concluded that no information was held.
20. DWP further explained that the "relatively small number of IPRs" meant that despite there being no link between the IPR and CFCD systems, it was able (within costs) to examine the IPR cases and establish whether there had been any CFCD involvement prior to death. However, "as there were no such cases, there was no information to give regarding how we became aware of any deaths".
21. In response to the second part of the complainant's request, DWP stated that it had interpreted it as seeking information about how it becomes aware of claimant deaths, including claimant suicides, and whether there have been any changes in how this information is gathered since 17 December 2019.
22. DWP explained that it becomes aware of the majority of deaths through the Tell Us Once service. However, it explained that this service does not notify it of the cause or circumstances of a death, and that DWP has no legitimate business reason to obtain or record this information.
23. The Commissioner notes that this request is based on an important issue to the complainant and that their query is "about that tentative stage of data capturing...and whether there has been any changes of attitude as to how this information is gathered and processed since 17 December 2019."
24. However, on the balance of probabilities, the Commissioner is satisfied that DWP does not hold any information falling within scope of the request, and that it has complied with section 1(1) of FOIA.

Other matters

25. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so and, where an authority chooses to offer one, the section 45 Code of Practice sets out, in general terms, the procedure that should be followed.
26. In this case the complainant requested an internal review on 2 June 2023 and DWP did not respond. The Commissioner reminds DWP of its obligations under the Code of Practice³.

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-45-code-of-practice-request-handling/>

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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.

Joanna Marshall
Group Manager
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Wycliffe House
Water Lane
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