

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 December 2024

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

Decision (including any steps ordered)

1. The complainant has requested the email addresses for the managers and Universal Credit Teams of Jobcentres in London.
2. The Commissioner's decision is that the Department for Work and Pensions (DWP) is entitled to rely on section 40(2), personal data of a third-party, to withhold the requested information falling within part 1 of the request. He also finds that DWP was correct to request clarification of part 2 of the request.
3. The Commissioner does not require DWP to take any steps in relation to this request.

Request and response

4. On 9 May 2024, the complainant wrote to DWP and requested information in the following terms:

"Under the FOI-Act can you please provide me with the following:

1) The email-addresses for the JobCentre Managers for all JobCentres in London

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2) The email-addresses for the UC-Teams at all JobCentres in London please?

Regarding request2, I am looking for team-email-addresses that don't

contain a personal name, unless where a JobCentre does not have a team-email-address for their UC-Team, in which case I request the email-address that is most appropriate for a claimant to communicate with you by email. E.g. the most senior member of staff may be the most appropriate contact.”

5. DWP responded on 15 May 2024 and confirmed that it held the information falling within the scope of the first part of the request. DWP stated that it had interpreted “Jobcentre Managers” as Jobcentre Plus Service Leaders¹ and provided a link to the DWP webpage with their contact details.
6. DWP requested clarification of the information sought in part 2 of the request.
7. On the same day, the complainant contacted DWP to confirm that the provided link did not work and returned an error page.
8. On 16 May 2024, DWP apologised and provided a working version of the link.
9. The complainant requested an internal review of the handling of their request on 18 May 2024. They disputed that DWP had correctly interpreted the request.
10. DWP provided the outcome of its internal review on 4 June 2024 and upheld its position. DWP also noted that following its request for clarification of part 2 of the request, it had received a further request for similar information.

Scope of the case

11. The complainant contacted the Commissioner on 13 June 2024 to complain about the handling of their request.
 12. Following correspondence with the Commissioner, DWP issued a revised response on 26 November 2024. DWP amended its position in relation to part 1 of the request. DWP apologised that its original response had been incorrect and confirmed that it was withholding the email
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¹ Service Leaders are responsible for the Jobcentres in a specific area. There are four Service Leaders who oversee all the Jobcentres in London.

addresses of the Jobcentre Managers as they were exempt under section 40(2).

13. In relation to part 2 of the request, DWP again stated that it needed clarification in order to answer the request.
14. The Commissioner will determine whether DWP was entitled to rely on section 40(2) to withhold the information falling within the scope of part 1 of the request and whether it was correct to seek clarification of part 2 of the request.

Reasons for decision

Section 40: Personal Data

15. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.
16. In this case, the relevant condition is contained in section 40(3A)(a)². This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles') as set out in Article 5 of the General Data Protection Regulation ('GDPR').
17. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of FOIA cannot apply.
18. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, he must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

19. Section 3(2) of the DPA defines personal data as:

“any information relating to an identified or identifiable living individual”.

² As amended by Schedule 19 Paragraph 58(3) Data Protection Act

20. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
21. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
22. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
23. In the circumstances of this case, the Commissioner is satisfied that the information relates to the individuals to which the emails belong. He is satisfied that this information both relates to and identifies these individuals. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
24. The fact that information constitutes the personal data of an identifiable living individual does not automatically exclude it from disclosure under FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.
25. The most relevant principle in this case is principle (a).

Would disclosure contravene principle (a)?

26. Article 5(1)(a) of the GDPR states that:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".

27. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.

Lawful processing: Article 6(1)(f) of the GDPR

28. Article 6(1) of the GDPR specifies the requirements for lawful processing by providing that "processing shall be lawful only if and to the extent that at least one of the" lawful bases for processing listed in the Article applies.
29. The Commissioner considers that the lawful basis most applicable is basis 6(1)(f), which states:

"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child"³.

30. In considering the application of Article 6(1)(f) of the GDPR in the context of a request for information under FOIA, it is necessary to consider the following three-part test:-
- i) Legitimate interest test: Whether a legitimate interest is being pursued in the request for information;
 - ii) Necessity Test: Whether disclosure of the information is necessary to meet the legitimate interest in question;
 - iii) Balancing Test: Whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject.
31. The Commissioner considers that the test of 'necessity' under stage (ii) must be met before the balancing test under stage (iii) is applied.

Legitimate interests

32. In considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case specific interests.
33. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties and commercial interests as well as wider societal benefits. They may be

³ Article 6(1) goes on to state that:-

"Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks".

However, section 40(8) of FOIA (as amended by Schedule 19 Paragraph 58(8) DPA provides that: -

"In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (dis-applying the legitimate interests gateway in relation to public authorities) were omitted".

compelling or trivial, but trivial interests may be more easily overridden in the balancing test.

34. The complainant explained that the emails should be disclosed as the Equality Act 2010 requires DWP "to be accessible to everyone, not just people who can or are comfortable with using phones".
35. The Commissioner acknowledges the inherent underlying legitimate interest in openness and transparency. He also accepts that there is a legitimate interest in claimants being able to communicate with their assigned Jobcentre in situations where they are unable or prefer not to contact it by telephone.
36. It is important to note that section 40 is different from other exemptions in that it does not start with an expectation of disclosure. As section 40 is the point at which FOIA and DPA interact, the expectation is that personal data will not be disclosed unless it can be demonstrated that disclosure is in accordance with the DPA.

Is disclosure necessary?

37. 'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.
38. The complainant explained that they assumed the Jobcentre managers have more than one email address and they were not interested in their private email address or their names. However, they stated that if the staff members did not want their names disclosed, then it is their responsibility to request a "neutral" email address from DWP that does not contain their personal data, for example, jobcentremanager.jobcentrename@dwp.gov.uk. The complainant considered that if they had failed to do so and only use an email that contains their personal details, then DWP should not use Data Protection legislation to withhold it.
39. The complainant stated that:

"The responsibility of a public-service to serve the public + be accessible to the public is greater, than to an employee who failed to request a neutral email-address.
As I said. I am not interested in names, I am interested in access by email."

40. The complainant considered that if an email has been used to communicate with external parties, then it is already in the public domain.
41. The complainant also considered that Jobcentre managers are responsible for frontline staff and complaints would be addressed to them. For this reason, the complainant considers that Jobcentre managers should be accessible, particularly as they are responsible for making reasonable adjustments.
42. DWP confirmed, as it had done to the complainant, that Service Leaders oversee multiple Jobcentres within their areas and their details are published online⁴.
43. DWP explained that employees below the level of Service Leader do not have their names in the public domain. Jobcentre managers report to the Service Leaders and are therefore junior in job level.
44. DWP confirmed that there is also a correspondence email that can be used which is in the public domain. The team that manages this inbox assigns queries, correspondence and complaints to the appropriate team for handling. DWP stated that it does not know what the complainant wishes to do with the email addresses and therefore emailing a Jobcentre Manager may not be the best or appropriate approach. DWP confirmed that the correspondence team's email address is correspondence@dwp.gov.uk.
45. The Commissioner has considered DWP's submissions provided in related case IC-316713-L5R8⁵ in addition to this case. In these submissions, DWP explained that it is not a requirement for Jobcentres to have customer emails as DWP is a largely telephony based service providing a range of initial contact methods including online services for many of its customers. DWP stated that it was not able to use email as a main channel of communication because of the associated security and GDPR risks.
46. DWP explained that, in line with the requirements of the Equality Act 2010, it does offer email as a reasonable adjustment when providing written communication to customers who require information in an alternative format. DWP explained that this can be requested and

⁴ <https://www.gov.uk/government/publications/local-partnership-opportunities-with-jobcentre-plus/jobcentre-plus-service-leaders>

⁵ <https://ico.org.uk/media/action-weve-taken/decision-notice/2024/4032057/ic-316713-l5r8.pdf>

considered on a case by case basis due to the individual needs of the customer and it may be the email address of a colleague.

47. DWP explained that it is not a requirement to contact customers by email so this would be dependent on what resources a colleague has available and what the customer needs. DWP provided the following non-exhaustive list of examples of what it may offer:
- Face to face meetings
 - Phone calls
 - Video calls
 - UC/JSA/ESA telephony lines
 - Provider or partner organisation contact numbers
 - The Universal Credit Journal
 - Their personal work email address
 - The team email address (if applicable)
 - A specialist role or team email address (if applicable)
 - A district, role or team email address (if applicable)
 - DWP's 'how to contact Jobcentre Plus' website
 - A provider or partner organisation's email address (if applicable)
 - Address of where the enquiry can be sent
48. The Commissioner considers that disclosure is not necessary to meet the legitimate aims set out above. DWP has confirmed that it has set processes for receiving written communications and claimants can use these to send emails if they wish.
49. The Commissioner notes that DWP has confirmed that email correspondence is available for those that need a reasonable adjustment and those claimants who cannot use the standard process to contact DWP will be offered an alternative communication method specific to their needs.
50. DWP is not required under the Equality Act 2010 to provide email correspondence to those who simply prefer to email and if it did, this would not require DWP to disclose the employee email addresses to the world at large under FOIA.

51. The Commissioner disagrees that employees should have to request a secondary anonymous email to protect their personal data. DWP has a duty to protect its employees' personal data and welfare.
52. He also considers that an employer providing an employee with an email address containing the employee's personal data does not constitute consent to have that personal data disclosed into the public domain.
53. The Commissioner disagrees that using an email address externally is the equivalent of putting it into the public domain. When communicating externally, DWP has the opportunity to provide email addresses to a restricted audience and decide if this is the appropriate address for the specific correspondence. This is not the same as publicly disclosing a list of email addresses that can be contacted regardless of the nature of the correspondence or appropriateness of this correspondence route.
54. The complainant has stated that they are only interested in access by email and the Commissioner notes that they have been provided with the Service Leader email addresses for the London area and a general correspondence email.
55. As the Commissioner has decided in this case that disclosure is not necessary to meet the legitimate interest in disclosure, he has not gone on to conduct the balancing test. As disclosure is not necessary, there is no lawful basis for this processing and it is unlawful. It therefore does not meet the requirements of principle (a).
56. The Commissioner's decision is that DWP is entitled to rely on section 40(2) to withhold the information falling within the scope of part 1 of the request.

Section 1(3): Clarification of request

57. Section 1(3) of FOIA states:

"Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested; and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (i) unless it is supplied with that further information".

58. When a public authority receives an unclear or ambiguous request, it must go back to the requester under section 1(3) of FOIA to ask for clarification.

59. Under section 1(3) of FOIA, once the public authority has informed the requester that it requires further clarification, it will not be under any further obligation to respond until that clarification has been provided.
60. The Commissioner's guidance on interpreting and clarifying requests⁶ sets out that where a request does not have a single objective reading, a public authority is obliged to seek clarification from the requester. It should not proceed with responding to the request until that clarification has been received.
61. In its original response, DWP asked the complainant to specify which "UC team" part 2 of the request was referring to as the request was very broad.
62. The question for the Commissioner is whether part 2 of the request had a single objective meaning. If it did not, then DWP should have responded to the complainant to seek clarification about the scope of the request.
63. Having considered the wording of part 2 of the request, the Commissioner's view is that it is not sufficiently specific about the information sought to have a single objective reading. It is not clear whether the request is seeking the email addresses of all teams working with Universal Credit across all the London Jobcentres or if the complainant believes that there is a single "UC team" at each Jobcentre.
64. The Commissioner considers that in addition to this, DWP is the most knowledgeable party with regards to its own Jobcentre team structure. In the particular circumstances of this case, he accepts that if DWP is unable to identify the specific team, clarification was necessary.
65. The Commissioner's decision is that DWP was correct to seek clarification from the complainant in relation to part 2 of the request and its response was in accordance with section 1(3).

⁶ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/interpreting-and-clarifying-requests/>

Right of appeal

66. 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

67. 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.
68. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Victoria Parkinson
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