

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 May 2018

Public Authority: Department for Work and Pensions (DWP)

Address: Caxton House
Tothill Street
London
SW1H 9NA

Decision (including any steps ordered)

1. The complainant has requested the DWP team email addresses and connected information. The DWP, holding the information, split the information into two types. That is public facing email addresses and email addresses which are solely for internal use. It relies on section 36(2)(c) to only withhold email addresses which are solely for internal use.
2. The Commissioner's decision is that the DWP correctly relied upon section 36(2)(c) to withhold the DWP' email addresses which are solely for internal use.

Request and response

3. On 15 March 2017, the complainant wrote to DWP and requested information in the following terms:
 - a. Can the DWP please provide element 1 (the DWP team-email-addresses) as described in para 13 of the DWP submission (in case EA/2016/0262) from 20-1-2017 --in the original form, i.e. all current such addresses-- from the third-party-supplier.
 - b. and only if this is within the cost-limit, please also include element2 (the team-names/descriptions) where these are readily available, and element3 (the locations) where these are readily available.

- c. But please note, that I am happy to extend the cost-limit by paying for a few extra hours. The below section "My Expectations" shall form part of this request too. If you still need more clarification or encounter a problem, please ask me immediately.
 - d. My Expectations – The Commissioner has not laid out here the complainant's "expectations" as they are concerned with the complainant's own calculations on how and how long it should take the DWP to comply with his requests. These "expectations" are not relevant to the exemption that the DWP came to rely on, hence their omission here.
4. The DWP responded on 12 April 2017 and stated, inter alia, that ;

"As you will know, the information you have requested is held on the Department's behalf by a 3rd party supplier and is not readily available from centrally held records. In order to comply with your request, the Department has retrieved the information from the 3rd party supplier.

The Department has identified 32,000 team email addresses falling within the scope of your request. This list consists of a combination of public facing email addresses and email addresses which are solely for internal use.

I attach a list of some of the public facing email addresses we hold. Others will be sent to you in batches. This is explained in more detail in the "background" section below.

Team email addresses which are solely for internal use are however being withheld. Their release would, or would be likely to, prejudice the effective conduct of public affairs and are exempt from disclosure by virtue of 36(2)(c) of the Freedom of Information Act".
5. The complainant requested an internal review on 20 July 2017. The DWP sent him the outcome of its internal review. It upheld its original position and conveyed this to the complainant on 7 August 2017.

Scope of the case

6. The complainant contacted the Commissioner on [3 August 2017] to complain about the way his request for information had been handled.
7. Regarding the public facing email addresses the DWP has not sought to rely on an exemption to withhold and informed the complainant that these will be supplied to him. Therefore the Commissioner has not

considered the public facing email addresses as part of this decision as she understands that they are to be provided to the complainant.

8. The Commissioner considers that she has to determine whether the DWP correctly relied upon on section 36(2)(c) to withhold email addresses which are solely for internal use.

Reasons for decision

9. Sections 36 states that:

“(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act...

- (b) would, or would be likely to, inhibit-
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation”
- (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

10. In this case the Minister Lord Henley provided the opinion in relation to the application of section 36(2)(c). The Commissioner is satisfied that he was a qualified person for the purposes of section 36.

11. In determining whether the exemption is engaged the Commissioner must determine whether the qualified person’s opinion was a reasonable one. In doing so the Commissioner has considered all of the relevant factors including:

- Whether the prejudice relates to the specific subsection of section 36(2) that is being claimed. If the prejudice or inhibition envisaged is not related to the specific subsection the opinion is unlikely to be reasonable.

12. Further, in determining whether the opinion is a reasonable one, the Commissioner takes the approach that if the opinion is in accordance with reason and not irrational or absurd – in short, if it is an opinion that a reasonable person could hold – then it is reasonable. This is not the same as saying that it is the only reasonable opinion that could be held on the subject. The qualified person’s opinion is not rendered

unreasonable simply because other people may have come to a different (and equally reasonable) conclusion. It is only not reasonable, if it is an opinion that no reasonable person in the qualified person's position could hold. The qualified person's opinion does not have to be the most reasonable opinion that could be held; it only has to be a reasonable opinion.

13. In order to assist the qualified person the DWP informed him, of the following;

- "The DWP email address service is provided by HPE (our 3rd Party Supplier). HPE have provided data to confirm there are currently 32,000 team email addresses. Further analysis by HPE has identified that out of the 32,000, 6,100 receive external emails, which indicates that the remaining 28,000¹ are for internal use only.
- Public facing team email addresses can be disclosed but releasing around 28,000 internal team addresses intended solely for staff use would be likely to significantly disrupt DWP business. So they need to be exempted from release as discussed below.
- Releasing into the public domain many thousands of team e-mail addresses which are solely for internal use would run the real risk of electronic disruption to the legitimate business of the Department. This could leave the business vulnerable to hackers or "denial of service" attacks.
- The Department operates a geographically dispersed service using contact centre telephony so that customers are dealt with by the next available agent regardless of location. Work is moved dynamically around the country to make best use of resource. Incorrect public use of these e-mail addresses would be likely to create significantly delayed response as staff attempt to route queries to the correct team. This could have a negative effect on the timely payment of benefits. It would also entail disruption and add extra costs to Departmental delivery as non-public facing staff would be forced to spend time on non-productive administrative work in attempting to route incoming e-mails correctly. Such disruption to the business is not in the public interest".

¹ The Commissioner notes that these figures don't add up correctly but has quoted them direct from DWP's correspondence'

14. On or around 12 April 2017, Lord Henley gave his opinion that the release of internal e-mail addresses would prejudice the effective conduct of Departmental business and therefore he approved of the application of the exemption under section 36(2)(c).
15. Having regard to the submissions before the qualified person the Commissioner's view is that the opinion given was a reasonable one for him to hold.
16. Section 36(2)(c) is a qualified exemption and therefore the Commissioner must consider whether in all the circumstances of the case the public interest in maintaining section 36(2)(c) outweighs the public interest in disclosing the information.
17. In *Guardian and Heather Brooke v the Information Commissioner and the BBC* (EA/2006/001 and EA/2006/0013), the Tribunal provided some general principles about the application of the public interest test in section 36 cases as follows:
 - The lower the likelihood is shown to be that the free and frank exchange of views or provision of advice would be inhibited, the lower the chance that the balance of the public interest will favour the exemption.
 - While the Commissioner cannot consider whether prejudice is likely (that is for the qualified person to decide), she is able to consider the severity, frequency or extent of any likely prejudice.
 - Since the public interest in maintaining the exemption must be assessed in the circumstances of the case, the public authority is not permitted to maintain a blanket refusal in relation to the type of information sought.
 - The passage of time since the creation of the information may have an important bearing on the balancing exercise. As a general rule, the public interest in maintaining the exemption will diminish over time.
 - In considering factors against disclosure, the focus should be on the particular interest that the exemption is designed to protect.
 - While the public interest considerations in the exemption from disclosure are narrowly conceived, the public interest considerations in favour of disclosure are broad ranging and operate at different levels of abstraction from the subject matter of the exemption.

- Disclosure of information serves the general public interest in promotion of better government through transparency, accountability, public debate, better public understanding of decisions, and informed and meaningful participation of the public in the democratic process.
18. The DWP has informed the Commissioner that it considered the public interest arguments as laid out below.
- There is a public interest in increased transparency and accountability of public officials which helps improve accessibility and the confidence that the public has in DWP. However we already publish on gov.uk all the contact details customers need when accessing any of the DWP Services, including complaint routes so they are all widely available. The DWP team internal email addresses are not customer facing teams and are not resourced to deal with the public directly.
 - Customers can pursue their benefit claims or enquiries/complaints through the Department's transparent claim/complaint/enquiries processes. Customers can also complain to the Independent Case Examiner and the Parliamentary Ombudsman if the customer is unhappy about the handling of their case.
 - The FoI Act is purpose blind and a FoI release to one person is treated as a release to the world at large for example the requester could choose to publish the list of internal email addresses. Release of these internal email addresses would therefore risk undue interference in DWP's delivery strategy because there is a real risk that staff may be contacted by the public regardless of whether they have legitimate business with the Department.
 - Releasing many thousands of internal email addresses in this way could also make the Department more vulnerable to "denial of service" attacks. This is not in the public interest.
 - In summary, releasing into the public domain thousands of team internal e-mail addresses would run the real risk of electronic disruption to the legitimate business of DWP. They could be targeted by hackers or "denial of service" attacks. Inadvertent public use of these email addresses would also mean a significantly delayed response. It would also entail disruption to benefit delivery as non-public facing staff would be forced to spend time putting them on the right track. This is not in the public interest.

19. The Commissioner considers that some weight must always be given to the general principle of achieving accountability and transparency through the disclosure of information held by public authorities. However the Commissioner recognises the merit in DWP public interest considerations and reaches the same conclusion. That is she has little hesitation in reaching the reasoned view that the public interest favours maintaining the exemption provided by section 36(2)(c) as regards the withheld email addresses which are solely for internal use.

Right of appeal

20. 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

21. 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.
22. 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

Deborah Clark
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