

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 10 November 2022

**Public Authority:** Department for Work and Pensions

**Address:** Caxton House  
Tothill Street  
London  
SW1H 9NA

#### **Decision (including any steps ordered)**

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1. The complainant has submitted a request to the Department for Work and Pensions (DWP) seeking a specific piece of internal analysis. DWP has denied holding information falling within the scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, DWP does not hold the requested information.
3. The Commissioner does, however, find that DWP breached section 10(1) as it did not deny holding the requested information within the statutory timeframe.
4. The Commissioner does not require DWP to take any steps.

## Background

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5. The complainant is seeking information on how DWP calculated that approximately 1 million disabled households would be, on average, £100 better off on Universal Credit than their current benefit scheme. These figures have been cited by Ministers in Parliament.

## Request and response

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6. On 14 January 2014, the complainant wrote to DWP and requested information in the following terms:

“Ministers have repeatedly stated that, when Universal Credit is fully implemented, there will be around 1 million disabled households that will receive a higher entitlement than they would have received in the legacy system.

Here is a reference to at least one occasion on which this statement was made to MPs:

<https://hansard.parliament.uk/Commons/2019-10-07/debates/69929F33-38B6-4F13-ABA4-A1D016A6A2FE/UniversalCreditDisabledClaimants#contribution-A41CEA19-5F9D-4B00-A5BF-7D50D5C2BD5A><sup>1</sup>

Please send me this internal analysis”.

7. DWP originally sought to rely on section 14(1) and 14(2) to refuse to comply with the request as it considered the request was vexatious. DWP confirmed that it considered the request was vexatious as it had already addressed the issue.
8. Following an investigation, the Commissioner issued decision notice IC-92562-S2P6<sup>2</sup> which determined that DWP was not entitled to rely on

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<sup>1</sup> The Commissioner notes that since the request was made the link provided by the complainant no longer directs to the Minister’s response. The response can be found here: <https://hansard.parliament.uk/Commons/2019-10-07/debates/69920F33-38B6-4F13-ABA4-A1D016A6A2FE/UniversalCreditDisabledClaimants>

<sup>2</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4020067/ic-92562-s2p6.pdf>

section 14(1) and 14(2). DWP was required to issue a fresh response which did not rely on section 14.

9. On 3 May 2022, DWP issued a fresh response and confirmed that it did not hold the requested information.
10. DWP explained that it does not have a document or spreadsheet with the underlying assumptions that estimated that one million disabled households would receive a higher entitlement on Universal Credit than they would have received in the legacy system. The estimate was made based on the results from DWP's Policy Simulation Model (PSM). This is a microsimulation model which uses a large range of inputs and complex coding to estimate the specified figure. DWP explained that this is why it had previously directed the complainant to published information about how the PSM worked because there is not a simple spreadsheet that sits behind the analysis.
11. DWP explained that the Government had recently published its policy paper "Completing the Move to Universal Credit, Our 2022 to 2024 strategy for implementing the final phase of Universal Credit<sup>3</sup>" and this may be useful to the complainant. DWP explained that in this document, it set out its modelled analysis on estimated benefit entitlements and employer outcomes between Universal Credit and legacy benefits, including the types and numbers of claimants who could benefit financially by moving to Universal Credit. DWP explained that it set out examples of claimants' circumstances for those likely to have notionally lower or higher Universal Credit entitlements than they receive currently with illustrative case studies. DWP provided a link to this policy paper.

## **Scope of the case**

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12. The complainant contacted the Commissioner on 15 May 2022 to complain about the way their request for information had been handled.
13. The complainant disputed that DWP did not hold an analysis which led to the specific figure. In particular, the complainant considered that as DWP had confirmed to the Office for Statistics Regulation that the figure was based on "internal analysis", DWP must hold this analysis.

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<sup>3</sup> <https://www.gov.uk/government/publications/completing-the-move-to-universal-credit>

14. The Commissioner considers that the scope of this investigation is to determine whether, on the balance of probabilities, DWP holds recorded information falling within the scope of the request.

## **Reasons for decision**

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### **Section 1: General Right of Access to Information**

15. Section 1(1) of the Act states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request and, if so, to have that information communicated to them. This is subject to any procedural sections or exemptions that may apply. A public authority is not obliged under FOIA to create new information in order to answer a request.
16. Where there is a dispute between the information located by a public authority and the information a complainant believes should be held, the Commissioner, following the lead of a number of First-Tier Tribunal (Information Rights) decisions applies the civil standard of proof – ie on the balance of probabilities.
17. In the specific circumstances of this case, the Commissioner will determine whether, on the balance of probabilities, DWP holds recorded information that falls within the scope of the request.

### **DWP's position**

18. DWP explained the estimate was based on the microsimulation model and it did not have the precise workings which all happen in the background of the model.
19. DWP explained that it uses a combination of actual/forecast and survey data to estimate the number of households who would have higher or lower benefit entitlements on Universal Credit compared to legacy benefits, and what the difference in those entitlements would be.
20. DWP explained that the estimate is based on the output from the PSM. It used data from the Family Resources Survey (FRS) sample in 2018/19 and aligned Universal Credit and legacy benefit caseload forecasts to DWP's official forecasts at Spring 2020.
21. DWP confirmed that legacy benefits comprise of the six benefits in the old system. These are Income-based Jobseekers Allowance (JSA), Income-related Employment Support Allowance (ESA), Income Support

(IS), Child Tax Credit (CTC), Working Tax Credit (WTC) and Housing Benefit (HB).

22. DWP explained that PSM is a unified model for producing a range of Universal Credit costings and impact analysis in a consistent way. DWP explained that the PSM was chosen because it brings together the data DWP needs to estimate Universal Credit and legacy benefit entitlements. It uses: (i) actuals/forecasts for each legacy benefit, (ii) detailed information on household characteristics from the FRS projected forward in line with official demographic projections, and (iii) calculations of legacy and Universal Credit benefit entitlements and estimated take up of such entitlements.
23. DWP explained that the Office for Budget Responsibility (OSR) sign off the caseload forecasts used in the model. DWP then uses the model for a wide range of policy costings that the OBR ultimately sign off. DWP explained that a similar approach is used by other organisations such as the Resolution Foundation and the Institute for Fiscal Studies.
24. DWP explained that it is important for it to use the PSM to supplement actual/forecast caseload data because the PSM:
  - i. **Simulates the whole of the tax and benefit system**  
So allowed DWP to estimate the current legacy benefit and Universal Credit entitlements but also allows DWP to estimate the impact of policy change on entitlements.
  - ii. **Estimates how many households are not taking up their full entitlement in legacy benefits**  
For example, DWP knows there to be a significant number of housing "additional" in the Universal Credit system (ie households who did not take up or weren't entitled to housing benefit), so it does not know about their housing status in the legacy benefit data.
  - iii. **Calculates impacts of policies** that are different on Universal Credit to legacy benefits such as the Minimum Income Floor for self-employed claimants.
25. DWP explained that it then uses a piece of code that extracts estimates of the number of claimants that would have a higher or lower (or no change to) entitlement and by how much.
26. DWP confirmed that the output received from the PSM was the figure cited by Ministers and MPs and the average gain in pounds and this analysis was performed in 2019.

27. The Commissioner asked for DWP's comments regarding OSR's confirmation that the figure was based on "internal analysis" and the complainant's position that information must therefore be held.
28. DWP explained that for the analysis produced, the two key sets of inputs to the PSM are: (i) benefit amounts on legacy, benefit amounts on Universal Credit; (ii) forecasts of the Employment and Support Allowance caseload (assuming Universal Credit did not exist). All of the different ESA and Universal Credit amounts and premiums are fed into the PSM for each year.
29. DWP explained that, for each year, the model builds from a sample of claimants simulating the characteristics of the whole population (20,000 rows of data). The model is then aligned to the ESA caseload forecast which is independently signed off by the Office for Budget Responsibility. DWP then uses a complex piece of coding which allows it to estimate how many of the disabled claimants on ESA would get more on Universal Credit than on legacy benefits.
30. DWP confirmed that it does not have a simple spreadsheet with the caseload workings because they are simulated by the model and then a complex piece of code extracts the data so all that it is left with, when it has run the code, is a spreadsheet that gives the one million and over £100 figure and not the background workings.

### **The Commissioner's position**

31. On the basis of DWP's explanations, the Commissioner is satisfied that, on the balance of probabilities, DWP does not hold the requested information.
32. The Commissioner understands why the complainant would believe that DWP would hold information demonstrating how it had arrived at the specified figure, particularly in light of the OSR's confirmation that the figure was the result of 'internal analysis'. However, 'internal analysis' does not have a formal definition and the Commissioner accepts that the process described by DWP could reasonably be considered to be 'internal analysis'.
33. The Commissioner is satisfied that, due to the process set out above, DWP does not hold any recorded information which shows the 'internal analysis' or the 'workings out' behind the figure specified.
34. DWP has explained that it uses a model to simulate the range of claimants circumstances across the population. DWP then enters code for the scenarios sought into the model which provides overall figures for each scenario coded for.

35. The Commissioner accepts that the analysis is performed by the PSM before it provides a single figure for each scenario requested and coded for.
36. The Commissioner accepts that, on the balance of probabilities, DWP does not hold information falling within the scope of the request.

**Section 10(1): Time for compliance**

37. Section 10(1) of the Act states:

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt”.

38. Whilst DWP did provide a response within 20 working days of the request, it did not confirm that it did not hold the specific information requested until after the Commissioner’s decision notice, IC-92562-S2P6.
39. The Commissioner therefore finds that DWP has breached section 10(1).

## Right of appeal

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40. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

41. 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.
42. 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

**Victoria Parkinson**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**