

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 July 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 information on an evaluation of support provided to vulnerable Universal Credit claimants. The Department for Work and Pensions (DWP) 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 not require DWP to take any steps.

Request and response

4. On 9 November 2023, the complainant wrote to DWP and requested information in the following terms:

"Please see

https://www.whatdotheyknow.com/request/papers_7a_7b_from_the_21019_ucp?nocache=incoming-2465973#incoming-2465973

1. The PMIU deep dive report refers to itself as 'this next report' and also refers to a 'first report' which had been carried out by the PMIU. Please provide that first report.

2. Please provide any PMIU reports, written since summer 2019, on a topic related to the support provided to vulnerable UC claimants.

3. The published deep dive report refers, on slide 5, to undertaking assurance activities. Please provide the result of that assurance exercise.”
5. On 17 November 2023, the complainant wrote again to DWP to clarify their request. They confirmed that request (a) relates to reports written by the PMIU or its successor teams.
6. DWP provided its response on 11 December 2023 and confirmed that it did not hold information falling within the scope of the request. DWP explained that PMIU reports are commissioned by the Cabinet Office and not DWP. DWP provided the complainant with details of how to make a request to the Cabinet Office.
7. DWP confirmed that it held no documents detailing the result of any assurance activities undertaken.
8. DWP upheld this position at internal review.

Scope of the case

9. The complainant contacted the Commissioner on 1 February 2024 to complain about the way their request for information had been handled. Specifically, they disputed that DWP did not hold the requested information.
10. The complainant also submitted a request for the same information to the Cabinet Office. In response to this request, the Cabinet Office provided the complainant with the “first report” falling within the scope of request 1. The complainant subsequently complained to the Commissioner. This complaint has been considered in decision notice IC-293519-T7J8.
11. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, DWP holds information falling within the scope of the request.

Reasons for decision

12. Section 1(1) of FOIA 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.

13. 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 decisions, applies the civil standard of proof – ie on the balance of probabilities.
14. 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.
15. DWP explained that it was of the view that the request had been made under a misapprehension regarding the contents of the published reports and how the Implementation Unit might work with Programmes.
16. DWP explained that the first report which has now been provided to the complainant by the Cabinet Office is dated June 2019. DWP considered that reading this report in full, it is clear that the main intention and recommendation stemming from this initial report was to undertake a more detailed review by way of a deep dive in the second phase of the work.
17. DWP also explained that this is a report to the Implementation Unit, not DWP. Its conclusions are for the Implementation Unit, not DWP who may not agree with the analysis, conclusions, or recommendations in their entirety. DWP explained that the Implementation Unit is not part of the governance of the Programme¹, it would be for the Programme to decide in what way to respond. DWP explained that the Implementation Unit's recommendations are not binding on the Senior Responsible Officer (SRO) in light of the SRO's status as directly responsible to Parliament for the implementation of their Programme and their decisions with respect to that.
18. DWP explained that in response to the request, it consulted various teams at every level, who searched their records and archives and found no such report existed within DWP. DWP confirmed that it had not been able to locate the slides provided to the complainant by the Cabinet Office.
19. In relation to the request for the assurance exercise, DWP explained that the published PMIU report, which led to the request, asked for an

¹ The Commissioner understands this to mean the Universal Credit Programme.

assurance exercise to be undertaken to clarify the minimum expected provision for vulnerable customers across Job Centres.

20. DWP explained that work on the second report was overtaken by Covid-19, with the pandemic resulting in redirection of the Universal Credit Programme resources to essential front-line services. DWP confirmed that this included the closure of the Universal Credit Programme and wider Universal Credit governance functions.
21. DWP explained that the work referenced in the report was not recommended after the pandemic. DWP stated that this was because the performance of Universal Credit in the pandemic had shown that the fears for vulnerable customers were misplaced. DWP confirmed that it had made the point to the Implementation Unit in 2019 that these issues were being raised by stakeholders and that the evidence for problems was weak and driven from a campaigning perspective, not an evidence based one.
22. DWP explained that as both reports are now in the public domain, it believes that this request was based on a misunderstanding. DWP set out that it could not search for reports that were never created or held by DWP.

The Commissioner's position

23. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check what information was held at the time of the request and any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.
24. For clarity, the Commissioner is not expected to decide categorically whether information is held, he is only required to make a judgement on whether further information is held on the civil standard of the balance of probabilities. That is, whether it is more likely than not that DWP holds further information.
25. On the balance of probabilities, the Commissioner is satisfied that DWP does not hold the requested information. The Commissioner accepts DWP's explanation that the first report was not produced within DWP and the assurance exercise was not ultimately undertaken.

Right of appeal

26. 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

27. 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.
28. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF