

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 September 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 from the Department for Work and Pensions (DWP) relating to Sector-based Work Academy Programmes. DWP relied on section 12 of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that DWP was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner also finds that DWP complied with its section 16 obligation to offer advice and assistance.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 6 March 2024, the complainant wrote to DWP and requested information in the following terms:
"1. Please detail any appraisals, reviews or other analyses that have been carried out on Sector-based Work Academy Programmes (SWAP) since the scheme was launched in 2020. Please detail the title, commissioner, date completed, remit and details of methodology of each of those appraisals, reviews or other analyses.

2. Please provide a full copy of each of those appraisals, reviews or other analyses, including any appendices or additional documentation attached.
3. Please provide details of the Government's hospitality sector-based work academy programme trial run including how much was budgeted, when it was [launched], what the pilot's expectations were, how it was funded.
4. Please provide a copy of any report approving that pilot
5. Please confirm whether any appraisal of that has been carried out.
6. Please confirm where the SWAP budget comes from.
7. Please provide the total number of SWAP starts per financial year.
8. Please provide a list of all data and/or statistics collected on SWAP each year and if so provide each of those statistics e.g. annual cost, drop out rate, numbers going into full time employment.”
5. On 5 April 2024, DWP responded. It relied on section 12 of FOIA to refuse the request – a position it upheld following an internal review.

Reasons for decision

Section 12 – cost of compliance

6. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
7. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”)
8. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for DWP is £600.
9. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 24 hours for DWP.

10. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held;
 - locating the information, or a document containing it;
 - retrieving the information, or a document containing it; and
 - extracting the information from a document containing it.
11. A public authority does not have to make a precise calculation of the costs of complying with a request; instead only an estimate is required. However, it must be a reasonable estimate. The Commissioner considers that any estimate must be sensible, realistic and supported by cogent evidence. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
12. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
13. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

DWP's position

14. DWP explained to the Commissioner that responding to just question 8 of this request would exceed the cost limit. It has advised that the following position is based on the cost and time involved in responding to question 8 only.
15. DWP advised the Commissioner that it uses a programme called SAS to interrogate datasets. It explained that to provide all the requested information on SWAP, including the specified measures, a complex code would need to be written to ensure that the correct data is identified, matched, and extracted correctly.
16. It advised building on an existing code is usually done as an iterative process to ensure that each program is functioning correctly. At the time of the request, the existing code was not able to retrieve the information requested and would require development.

17. DWP advised that once the code was developed, the data would then need to be correctly compiled, and the appropriate disclosure control measures would have to be applied. The data would then need exporting to a spreadsheet with the appropriate titles, labels and footnotes being added.
18. DWP informed the Commissioner that since the request, it had begun producing a quarterly publication on SWAPs management information and the time to produce the published quarterly management information has been used as a guide to calculate the estimates for complying with question 8 of this request.
19. DWP advised that the first step would be to combine the JCP level trackers which would then produce district level trackers, which could then be aggregated to produce a single national level tracker. It clarified that the JCP level tracker is a tracker used by employment advisers in each jobcentre to record and monitor progress of SWAPs at a local level. It estimated that this work would take 7 hours.
20. Once the national JCP level tracker information had been formulated, it would be required to provide an overview of the national tracker to detail the information requested. It estimated that this work would take approximately 5 hours.
21. After the overview had been compiled, DWP explained that the information would need to be transferred to SAS, this is due to the information being currently stored in Microsoft Excel. Due to the size and data held in Excel, DWP is not able to analyse the data unless it is transferred to a programme called SAS. SAS is used by DWP to interrogate datasets and provide breakdowns of data. DWP informed the Commissioner that transferring the information to SAS would take 1 hour.
22. DWP then stated it would be required to write and run a code to create the requested data set for SWAP, which would take approximately 7 hours. The code would also need to be run for Real Time Information (RTI) data, which is the HMRC database that holds Pay As You Earn (PAYE) information. The RTI database is used by DWP's Universal Credit system in the assessment of earnings for the purposes of calculating benefit entitlement. DWP system is unable to automatically link participation in a SWAP with an employment outcome, meaning the RTI data is used to determine whether participants are recorded as making earnings, and are therefore in employment following a SWAP. It advised that this process would also take an estimated 7 hours.
23. DWP would then need to collate the annual cost data of SWAPs which it estimated would take 3 hours worth of work.

24. DWP also advised that at three separate stages of the process, it would be required to apply disclosure control to prevent identification of individuals. This work would take an estimated 7 hours altogether, taking the complete estimate to a total of 37 hours.

The Commissioner's view

25. The Commissioner notes that DWP has included a 7 hour estimate to make redactions of personal data. The Commissioner must remind DWP that considerations for time/cost of making redactions cannot be considered in section 12 calculations. The Commissioner has therefore not considered these additional 7 hours, and has determined the total time to comply with question 8, is approximately 30 hours.
26. Based on the above calculations and work outlined by DWP to comply with the request, the Commissioner is satisfied that complying with this request would exceed the appropriate limit. Although the calculations were provided for question 8 only, the Commissioner is satisfied that DWP is entitled to refuse the request in its entirety under section 12.

Procedural matters

16 – advice and assistance

27. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
28. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
29. In this case, DWP provided the requester with a number of links to support in further understanding. It also advised that after reviewing the additional links, the complainant may wish to refine their request to either a specific topic or a defined period of time.
30. The Commissioner is therefore satisfied that DWP did comply with section 16 of FOIA when dealing with this request.

Right of appeal

31. 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

32. 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.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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