

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 about the suspension of benefits. The Department for Work and Pensions (DWP) initially stated it did not hold the information requested, but disclosed some information at internal review.
2. The Commissioner's decision is that DWP has provided all the information it holds, and that, on the balance of probabilities, DWP does not hold any further information that falls within scope of the request.
3. The Commissioner does not require further steps.

Request and response

4. On 11 January 2024, the complainant wrote to DWP and requested information in the following terms:

On 10/01/2024 Neil Couling, Change and Resilience Director General and Senior Responsible Owner Universal Credit at Department for Work and Pensions, told the Work and Pensions Select Committee that, in cases selected for extra checking:

"We actually changed our approach in the light of feedback from claimants and elected representatives. We used to suspend all the cases, and now we don't suspend. We go in and do the checking as quickly as we can, and we can do that now because we have caught up with the backlogs that built up in the covid time. As Peter says, we try to clear the inquiry before, but that depends on the claimant coming back to us. If the claimant does not come back to us, we do then suspend. If claimants co-operate with the process, there is not an interruption in payments to them, unless they have been engaged in some activities that they should not have been."

committees.parliament.uk/oralevidence/14052/pdf/.

If there has been a change then there will presumably have been a change in staff guidance, or in process.

The 'Suspension and termination of benefits: staff guide' has not been updated since 2015: [Suspension and termination of benefits: staff guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/suspension-and-termination-of-benefits-staff-guide)

How was this change communicated to staff? Please provide the document communicating the change to staff carrying out these checks.

5. DWP responded on 31 January 2024 and stated it did not hold the requested information. DWP revised this position at internal review and provided a copy of its internal guidance on benefits suspension, subject to some redactions under section 31 (law enforcement).

Scope of the case

6. The complainant remains dissatisfied with DWP's handling of their request.
7. During the course of the Commissioner's investigation, the complainant stated DWP had misinterpreted their request and had not provided the correct information. The complainant said "the request was for guidance stating that benefit will not be suspended if a claimant co-operates with the process, not for guidance stating that vulnerability will be considered prior to suspension."
8. Furthermore, the complainant believes it is not credible that no further information is held, as the DWP "must" hold a record, stating: "If the information provided by the DWP official is correct (and I have no reason to think it is not)... this change must have been communicated to DWP staff."

9. The Commissioner considers that the scope of his investigation is to consider whether DWP has, on the balance of probabilities, provided the complainant with the information that is held that is relevant to the request.
10. The complainant has acknowledged DWP's application of section 31 to a small portion of the guidance and has not challenged this.

Reasons for decision

11. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled –
 - a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and,
 - b) if that is the case, to have that information communicated to them.
12. 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, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority holds information relevant to the complainant's request.
13. The DWP has confirmed to the Commissioner that it has provided the complainant with all of the information it holds that is relevant to the request. It has stated the guidance provided is the only guidance DWP teams follow in relation to any claim suspensions.
14. With regard to the complainant's concern that the information provided does not answer their request, the Commissioner notes the guidance provided does open with advice on how to assess whether suspension is appropriate.
15. The Commissioner acknowledges the complainant does not feel the information provided answers their request, as it does not seem to accord with the quoted statement of Neil Couling to the Work and Pensions Select Committee.
16. FOIA gives a general public right of access to recorded information held by public authorities. However, it does not require the public authority to answer questions or generate new information if none is recorded. The Commissioner accepts that the complainant believes the public authority should hold other information within scope of their request.

17. However, having considered all of the available information, the Commissioner considers that there is no evidence to indicate that DWP holds further recorded information describing a change in guidance, and therefore has no further information to provide the requester.
18. The Commissioner is therefore satisfied that, on the balance of probabilities, DWP has provided the complainant with all the information held within scope of the request.

Right of appeal

19. 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

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanna Marshall
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Wycliffe House
Water Lane
Wilmslow
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SK9 5AF