

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 October 2024

**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 requested information regarding how DWP assessed that a criteria for deferring a claimant's migration to Universal Credit should be removed from guidance.
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.

#### Background

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4. Following the implementation of Universal Credit for all new benefit claims, DWP undertook the process of moving pre-existing claimants of legacy benefits onto Universal Credit, known as "Move to UC". Pre-existing claimants were initially required to apply for Universal Credit where their circumstances changed and required a re-evaluation of their benefit entitlement. Managed migration is the process by which claimants on legacy benefits are moved onto Universal Credit<sup>1</sup>.

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[https://ucmove.campaign.gov.uk/?gclid=c01dc85144bc149479d6aea01da68317&gclsrc=3p.ds&msclkid=c01dc85144bc149479d6aea01da68317&utm\\_source=bing&utm\\_medium=cpc&](https://ucmove.campaign.gov.uk/?gclid=c01dc85144bc149479d6aea01da68317&gclsrc=3p.ds&msclkid=c01dc85144bc149479d6aea01da68317&utm_source=bing&utm_medium=cpc&)

## Request and response

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5. On 8 March 2024, the complainant wrote to DWP and requested information in the following terms:

"From comparing 'Exclusions and deferrals' guidance version 1 & 5 it appears that claimants requiring a home visit are no longer deferred from managed migration.

v.1:[https://www.whatdotheyknow.com/request/guidance\\_for\\_teams\\_working\\_on\\_ma#incoming-2346967](https://www.whatdotheyknow.com/request/guidance_for_teams_working_on_ma#incoming-2346967)

v.5:[https://www.whatdotheyknow.com/request/updated\\_guidance\\_for\\_teams\\_worki#incoming-2557448](https://www.whatdotheyknow.com/request/updated_guidance_for_teams_worki#incoming-2557448)

DWP will presumably have carried out an assessment of readiness or scaling assessment to take this step.

Please provide the criteria used to make this assessment and the assessment of readiness against those criteria."

6. DWP provided its response on 9 April 2024 and denied holding the requested information.

7. DWP stated:

"A deferral was in place for those who needed a home visit during the Earliest Testable Service. This was to allow time to design the referral process for Move to UC customers and allowed for a cancellation of the Migration Notice. Home visits have since been used, where appropriate for the customer.

Impacting has taken place to ensure that visiting resource requirements are sufficient prior to notifying non-Tax Credit customers in greater numbers.

More generally it would appear from [complainant's] recent publication on Move to UC that you may have misunderstood the purpose of deferrals. They were never intended as a marker of vulnerability (as the

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[utm\\_campaign=03343858\\_DWP\\_DWP\\_MOVE%20TO%20UC\\_C2DE\\_AWARE\\_NONE\\_W01\\_03\\_5Y-HMG23-047\\_Paid%20Search\\_SE\\_GCS-Y\\_Changes%20to%20Benefits%20System&utm\\_term=managed%20migration&utm\\_content=Changes%20to%20Benefits%20System\\_Moving%20to%20UC#jump](#)

[complainant's] publication infers) but simply that a bespoke business process was required, which had not yet been developed. Accordingly, as these processes are developed and deployed specific assessments of readiness are not warranted nor conducted".

8. The complainant requested an internal review of the handling of their request on 9 April 2024. They considered that DWP's response appeared to confirm that there was some kind of assessment of DWP's ability to make home visits. The complainant considered that this should have been provided in response to the request.
9. DWP provided the outcome of its internal review on 19 April 2024 and upheld its position that no information was held.
10. DWP provided the following explanation:

"In May 2022, DWP started a multi-location approach with a small number of households, being brought into the mandatory Universal Credit migration process. This was to enable us to develop our processes and systems before expanding the migration process. At this point we did not have functionality to refer customers to the home visiting service, or guidance in place for agents and visiting officers. Agents were advised to cancel Migration Notices, until that processes [sic] and guidance were in place.

Once processes were in place, agent guidance was updated. No formal assessments were carried out prior to the change in guidance referenced".

## Scope of the case

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11. The complainant contacted the Commissioner on 22 April 2024 to complain about the way their request for information had been handled. Specifically, they disputed that DWP did not hold the requested information.
12. 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

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13. 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 falling within the scope

of 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.

14. Where there is a dispute between the information located by a public authority and the information a complainant believes is held, the Commissioner follows the lead of a number of First-Tier Tribunal decisions and applies the civil standard of proof – ie on the balance of probabilities.
15. 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.
16. The complainant stated in their request:

“DWP states it does not hold the requested information. However, it is clear that by the time of the request DWP assessed that they were ready to migrate claimants that required a home visit but had not been at an earlier date. To get from one position to another there must have been some sort of decision that DWP were now ready to migrate claimants in need of home visits. And that decision will presumably have been taken with reference to some set of relevant factors”.

17. DWP provided the following submissions:

“As part of this investigation we have identified that there was an error within the V5 guidance that was released in relation to the earlier FOI request. When the guidance was shared with [the complainant], ‘Claimants who require a home visit’ was not included in the deferrals list in version 5 of the guidance. This was in fact an error, and the live version of the guidance for agents at the time of that FOI request did still include ‘Claimants who require a home visit’ in the deferrals list. We apologise that this has only come to light as part of these investigations and we did not identify this error in the earliest stages of this FOI request.

For completeness, we can however confirm that the ‘claimants who require a home visit’ category has subsequently been removed from the deferrals guidance for agents and people can now be referred for a home visit as part of the managed migration process. This is set out in the current published version of the exclusions and deferrals guidance.

Therefore at the time of the FOI request (FOI2024/20209) on 9 April we did not hold any assessments, reviews, impacting or other such activities to explain why the change, that [the complainant] was enquiring about, happened, because no such activity ever took place.

The reason for the confusion has come from the error made in the V5 guidance.”

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

18. In cases where a dispute arises over the extent of the recorded information that as 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.
19. 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.
20. Whilst the Commissioner understands why the complainant would believe the information is held on the basis of the guidance and explanations provided to them, in light of DWP's explanation that this was based on an error, he accepts that no information was held at the time of the request.
21. On the balance of probabilities, the Commissioner accepts that, at the time of the request, the criterion in question had not been intentionally removed from the guidance and therefore no assessment had been made regarding a decision that had not been taken.

## Right of appeal

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22. 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)

23. 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.
24. 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**