

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2025

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 related to 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 21 March 2024, the complainant wrote to DWP and requested information in the following terms:

"On 8 March, the Cabinet office FoI team sent me the attached document¹, written by the Prime Minister's Implementation Unit, probably in 2018 or 2019. Please tell me how DWP responded to the

¹

https://www.whatdotheyknow.com/request/pmiu_reports/response/2585114/attach/4/2024%2003%2011%20Annex%20to%20Internal%20Review%20Universal%20Credit%20Update%20June2019.pdf?cookie_passthrough=1

report's recommendations for phase 2, listed on page 16, and share with me the resulting reports or documents in response to those recommendations, as described in the 'timeframes' column on page 16".

5. DWP provided its response on 17 April 2024 and denied holding the requested information. DWP explained that the work was carried out by the Prime Minister's Implementation Unit (PMIU) for the Cabinet Office and that responsibility for the follow up actions on this work did not fall to DWP. DWP noted that a phase 2 to this work was established and it had provided the content of this via a previous request.
6. The complainant requested an internal review of the handling of their request on 18 April 2024. They disputed that DWP did not hold the requested information and directed DWP to a section of the original report which provided a timeframe by which DWP was expected to provide its response to the recommendations.
7. DWP provided the outcome of its internal review on 3 May 2024 and upheld its position that it did not hold the requested information.

Scope of the case

8. The complainant contacted the Commissioner on 18 October 2024 to complain about the way their request for information had been handled. Specifically, they disputed that DWP did not hold the requested information.
9. The complainant confirmed that in the time between DWP's internal review and submitting their complaint, they had contacted the Cabinet Office for this information and the Cabinet Office had also denied holding the requested information. The Commissioner accepted this complaint for consideration despite it being outside of his expected timeframe for bringing complaints to his office as it was clear that the delay was due to the complainant trying to obtain the information by an alternate means rather than an undue delay.
10. The Commissioner considers that the scope of his investigation is to determine, on the balance of probabilities, whether DWP holds information falling within the scope of the request.

Reasons for decision

11. Section 1(1) of FOIA states that any person making a request for information from 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.
12. 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.
13. 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.

The complainant's position

14. The complainant provided the following explanation regarding why they disputed DWP's position:

"Since 8 March [2024], I have been seeking a report referenced in a document produced by the Prime Minister's Implementation Unit in 2018 or 2019. On page 16 of the report, in the timeframes column, it states: 'late June – DWP to produce internally and share with PMIU for comment'. This relates to a recommendation that the Universal Credit Programme 'documents a single and coherent offer to set out the approach to supporting vulnerable claimants in one place'. I checked with both Cabinet Office and DWP and both claim not to have a copy of this important 'single and coherent offer' document."

15. They also stated:

"This document, if it does exist, would provide crucial information about universal credit. DWP is currently migrating hundreds of thousands of disabled people on out of work benefits onto universal credit. The arrangements they have put in place for 'vulnerable' claimants is crucial. And if they failed to follow this recommendation from the PMIU then that too is crucial information".

DWP's submissions

16. DWP drew the Commissioner's attention to IC-286031-D6P1² in which the Commissioner determined that, on the balance of probabilities, DWP did not hold the original report from which the recommendations were taken.

17. DWP restated its position from this case which was:

"The first report which has now been provided to the requested[sic] by the Cabinet Office³ is dated June 2019. 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.

It is also worth bearing in mind that this is a report to the Implementation Unit, not DWP. Its conclusions are for the IU, not the DWP who may not agree analysis, conclusions or recommendations in their entirety. The IU is not part of the governance of the Programme⁴, it would be for the Programme to decide in what way to respond. The IU's recommendations are not binding on SROs⁵ given their status as directly responsible to Parliament for the implementation of their Programme and their decisions with respect to that.

This first report recommended to the Implementation Board that "PMIU and DWP jointly scope a deep dive on vulnerable claimants' experience, looking at the quality and efficacy of support provided across the Jobcentre network". Other recommendations also referred to 'Phase 2' of the work. Furthermore, we are not aware of any specific commissions for the Department to undertake any specific new work, as a result of this first report aside from the aforementioned jointly scoped deep dive.

Our inference is that the Department decided to roll effort and these various recommendations into the second phase, rather than commission separate pieces of work. With the passage of time, it is hard to be certain, but after checking with the SRO he confirms that DWP had questions about the accuracy of the first phase but decided to attempt to address those concerns through the process of the second study rather than raise a challenge to a specific recommendation".

² <https://ico.org.uk/media2/migrated/decision-notice/4030428/ic-286031-d6p1.pdf>

³ The Commissioner notes however that the requesters in each case are separate individuals.

⁴ The Universal Credit Programme

⁵ Senior Responsible Officer

18. DWP explained that in terms of the current FOI request, DWP maintained its position that no information was held regarding this first report as this was commissioned by the Cabinet Office and not by DWP. DWP considered that the fact that it was not able to find a copy of the slides which relate to phase 1 of their work substantiates the SRO's recollection of events.
19. DWP stated that there is no record of how it responded to the first PMIU report. DWP explained that this was because there is no evidence that the first report was received at DWP to conclude that any discussion could have taken place regarding this.
20. DWP stated that given DWP's position of being unable to locate the first report within its records, then DWP will have been unable to undertake any of the recommendations therein. DWP stated: "As such, DWP could not act upon or undertake any recommendations for a report there is no evidence DWP had received".
21. In relation to its own statement that the UCPB⁶ is not bound by the PMIU's report and may disagree with its recommendations, DWP explained that it is important to make the distinction that it should not be assumed that means that a particular report had been received. DWP explained that this meant that had it been received, DWP would have considered the information therein and it was for DWP to determine future action.

The Commissioner's position

22. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of the 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.
23. As set out above, 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.

⁶ Universal Credit Programme Board

24. The Commissioner acknowledges the complainant's evidence that the original report included recommended actions for DWP and understands why they would consider that information would be held regarding DWP's response to these recommendations.
25. He also notes the apparent confusion within DWP about whether the report was received or not. DWP has stated that it has no evidence that the report was received in order to react to the recommendations however it also states that the SRO recalls the decision to proceed to "phase 2" without conducting the recommended exercise as there were questions regarding the accuracy of the phase 1 report.
26. However, the Commissioner accepts that DWP did not produce the original report and can find no evidence of holding this report containing the recommendations or any actions following this. The Commissioner notes that there have been several requests and decisions related to the PMIU reports and during these searches neither DWP nor the Cabinet Office has located any information on DWP's response to the "phase 1" report.
27. On the balance of probabilities, the Commissioner is satisfied that DWP does not hold the requested information.

Right of appeal

28. 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

29. 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.
30. 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