

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 March 2025

**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 the Department for Work and Pensions (the DWP) provide the criteria used to make assessments and the assessments undertaken when removing deferrals from claimants.
2. The Commissioner's decision is that, on the balance of probabilities, the DWP does not hold the requested information.
3. The Commissioner does not require further steps.

### **Request and response**

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4. On 13 September 2024, the complainant wrote to the DWP and requested information in the following terms:

"...It is understood that the groups of tax credit customers for whom DWP had been delaying or cancelling migration notices were those listed in the 'deferrals' section of the 'exclusions and deferrals'...

DWP will presumably have carried out some form of an assessment of readiness to begin notifying, or re-notifying, each of the listed groups.

Please provide the criteria used to make the assessment(s) and the assessment(s) of readiness against those criteria."

5. The DWP responded on 23 September 2024. It stated that it did not hold the requested information. A position which it maintained during its internal review.

## **Background**

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6. The government announced that 6 legacy benefits were ending and being replaced by Universal Credit (UC).
7. Following this announcement the DWP started to send out a letter called "Universal Credit Migration Notice." These letters explained the process for moving to UC and when it was required by.
8. The DWP explained that some claimants would not be able to take part in the initial move to UC (managed migration) programme due to their personal circumstances, or the system being unable to process them.
9. Claimants were either being excluded from participating in the move to UC (managed migration), whereas others had their participation deferred.
10. Deferrals occurred in a specific set of circumstances, which the DWP outlined in specialist teams guidance. This guidance outlined either when the deferral was to last until, or what type of action was required before the claimants could be moved to Universal Credit. The Commissioner has reproduced this below:
  - Claimant[s] aged 16/17 years old and are claiming in their own right or as a couple. These claimants were deferred until their 18 birthdays.
  - Claimants whose mail was returned as "no longer at the address" were deferred until a correct address could be established.
  - Claimants with a child in non-advanced education at aged 19 were deferred until the child reached the age of 20.
  - Claimants with visual impairments were deferred until the migration notice could be issued in braille and large print.
  - Claimants who have an appointee were deferred until a process was designed to include them.
  - Claimants whose data had been mismatched between data held in the "mover service" and data held on "CIS (searchlight)", were deferred until the data could be reviewed and corrected.

- Terminally ill claimants were deferred until a process was in place which included them and was appropriate for their circumstances.
  - Claimants who had a joint tax claim as their partner was in prison in an EU member state, were deferred until a process was in place to safely migrate them to Universal Credit.
11. In March 2020, work was paused on the moving of those claiming legacy benefits to UC to focus on the response to the pandemic. Informed by learnings from its initial pilot and throughout the pandemic, the DWP was able to resume its work on moving claimants to UC in 2022.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 16 October 2024 to complain about the way their request for information had been handled.
13. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, the DWP holds the requested information.

### **Reasons for decision**

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#### **Section 1 – general right of access to information**

14. Section 1 (1) FOIA states 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 him.”
15. Section 1(1) requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If the public authority does hold relevant information, FOIA also requires that it communicates that information to the requestor, subject to any exclusions or exemptions applying.
16. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.

17. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request (or held any at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.
18. The Commissioner has therefore sought to determine whether, on the balance of probabilities, the DWP has conducted adequate searches to locate the requested information.

### **The complainant's position**

19. The complainant explained that at some point the deferrals had stopped applying to the groups of claimants. They added that prior to this point, there must have been a decision that it was appropriate to stop applying the deferral, and presumably consideration of the relevant factors and whether removal was appropriate would have taken place.

### **The DWP's position**

20. The DWP explained to the Commissioner that, in response to the request, it had approached the teams within the organisation, who were responsible for managing the move of the various categories of claimants to Universal Credit (UC).
21. Having approached the team within the organisation responsible for the move to UC, the DWP were able to confirm to the complainant that there was no requirement to complete assessment of readiness, formal or otherwise, for claimants listed in the deferrals section of the guidance. Therefore there was no criteria used.
22. The DWP stated that the system responsible for moving claimants to UC, was being developed constantly. As some claimants had already been moved successfully, feedback from these individuals and members of staff supporting those claimants, allowed for the system being used to be improved. The DWP explained that these improvements allowed it to simply start to send out the Migration Notices to those claimants that had been deferred, rather than an assessment being undertaken.
23. The DWP stated that deferral was lifted for each group once either new legislation came into force, or as mentioned above, changes had been made to the system to ensure the relevant groups would have the correct journey. As the team was able to confirm that assessments were not required, nor undertaken before the removal of deferrals, no searches for the requested information were required.

24. The DWP advised that some of the circumstances for deferrals became defunct following the pause in the move to UC during the pandemic. For example, the final job centres to rollout UC did so in 2018. This meant that there could have been customers who were 16 and unable to make the move to UC until they turned 18 in 2020. Obviously as the pandemic resulted in a pause to the move to UC, which resumed in 2022, these individuals would have been at least 19 and no system changes or assessments had been required.
25. The DWP confirmed that for other categories, the system filtered out cases that met the deferral criteria. This allowed those criteria to be removed as the claimants were ready to be brought onboard. It advised that rather than an 'assessment readiness' being required; a simple coding change would be completed.
26. The DWP advised that for delivery planning purposes it did have an informal way of tracking when certain changes would be in place. This then allow claimants that had previously been deferred, to be moved to UC without the requirement of an assessment.
27. The DWP explained that the informal tracking method was a multi-disciplinary team discussion. These discussions allowed the team to ensure all deliverables were in place and system checks were undertaken so that the claimants could be safely moved before to UC before tax credit payments end.
28. The DWP confirmed that the multi-disciplinary team discussions did not have notetakers and therefore it was able to confirm that there was no recorded information relating to discussions which took place.

### **The Commissioner's decision**

29. Whilst the Commissioner understands the complainant's point that considerations must have taken place, he can only determine whether, on the balance of probabilities, the information is held. It is not for the Commissioner to determine whether the information should be held.
30. Having reviewed the DWP's explanation and the responses provided by the team responsible for the change to UC, the Commissioner is satisfied that, on the balance of probabilities, the DWP does not hold the requested information.
31. The DWP has clearly outlined that informal discussions allowed the team to ensure that all deliverables were in place on the system before those claimants that were deferred were invited to move to UC.
32. The DWP was also able to outline that system changes were a continuous process during the move to UC and the pause during the

pandemic. Legislation changes and feedback from customers and staff allowed for improvements to the system to be tailored to those that were deferred. These improvements allowed for the claimants to be invited without the need of a readiness assessment.

33. The Commissioner does not require any further steps to be undertaken.

## Right of appeal

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34. 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)

35. 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.
36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Michael Lea**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
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