

## **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)**

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1. The complainant has requested the Equality Impact Assessments (EqIAs) commissioned by the Minister for Disabled People over a thirteen year period.
2. The Commissioner's decision is that the Department for Work and Pensions (DWP) is entitled to rely on section 12(2), cost of compliance, to refuse to confirm or deny whether it holds the information.
3. The Commissioner is also satisfied that DWP provided adequate advice and assistance to aid the complainant in refining their request.
4. The Commissioner does not require DWP to take any steps.

#### **Request and response**

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5. On 29 July 2024, the complainant wrote to DWP and requested information in the following terms:  
  
"Under the FOI-Act, can you please provide the Equality Impact-Assessments Commissioned by the minister for disabled people (or acting-minister for disabled people) in the last 13years (i.e. from July2011 onwards), in relation to the effect that any innovations (such as WelfareReform or digitisation), were expected to have or did have, on existing + esp. on potential claimants?"

Can you please provide the year + month with each Impact-Assessment?"

6. DWP provided its response on 14 August 2024 and refused to confirm or deny whether it held the requested information as to do so would exceed the appropriate limit provided by section 12(2) of FOIA.
7. DWP explained that the request spans a "huge time period", is not specific to any piece of legislation or benefit and asks about policy initiatives impacting on disabled people, and that this is quite broad. DWP set out that due to the wide-ranging and non-specific nature of the request it would be difficult to search for the information.
8. DWP explained that in light of the number of different Ministers, changes of government, restructuring of DWP and turnover of staff working on welfare reforms, the information is not centrally held and would be held by the team that did the analysis. DWP therefore considered that the only way to find the information requested would be to contact every policy area to see if they hold information falling within the scope of the request.
9. DWP confirmed that in a previous, linked, request it had suggested that the complainant should narrow the request to a specific policy area and that it could not provide more specific advice.
10. The complainant request an internal review on 19 September 2024 as they disputed that section 12(2) is engaged. The complainant considered that the Minister's Office would have a record of the EqIAs commissioned in order to ensure they are implemented.
11. DWP provided the outcome of its internal review on 8 October 2024 and upheld its position.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 10 October 2024 to complain about the way their request for information had been handled, specifically disputing that section 12(2) was engaged.
13. The Commissioner considers that the scope of his investigation is to determine whether DWP was entitled to refuse to confirm or deny whether it holds the requested information on the basis of section 12(2). The Commissioner will also consider if DWP provided adequate advice and assistance in accordance with the requirements set out in section 16.

## Reasons for decision

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### Section 12: Cost of compliance exceeds appropriate limit

14. Section 1(1) of FOIA states:

"Any person making a request for information to a public authority is entitled to –

(a) to be informed in writing by the public authority whether it holds the information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

15. Section 12 states:

"(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit".

16. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regulations) at £600 for central government departments.

17. 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 provides an appropriate limit of 24 hours for DWP.

18. 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.

19. As DWP has relied on section 12(2), only the first of the permitted activities is relevant to this case.

## **DWP's arguments**

20. DWP explained that since 2011, there have been twelve different ministers responsible for disabled people, with one minister holding the position twice, leading to thirteen different ministerial periods.
21. DWP further explained that there are ten policy areas where an EqIA would be held and each policy area contains an average of four to five subgroups that would need to be approached in order to locate any EqIAs.
22. DWP set out that any record over ten years old is beyond standard document retention times and would be held in remote storage registered facility.
23. DWP explained that it had not conducted a sampling exercise as this would present difficulties with what to search for and where to find it. DWP stated that this was because the request was for EqIAs related to any innovations that (i) might have or (ii) did have impacts on (a) existing or (b) potential claimants.
24. DWP considered that even an efficiently designed sampling exercise would require the investment of time far in excess of the 24 hour limit to design such a sampling exercise, making sure that the guidance on how to carry it out was comprehensive and understood by those carrying it out.
25. DWP explained that the only way to find the requested information would be to reach out across every policy area and subgroup to see if they hold an EqIA pertaining to the specific nature of 'innovations such as welfare reform or digitisation'.
26. DWP set out that the complainant asks for a large volume of information over a period of 13 years which explicitly covers both policy changes (welfare reform) and operational changes (digitisation).
27. DWP explained that there is no central register of EqIAs and any that have been reviewed by the Minister for Disabled People would be attached to the individual policy files, some of which may have been closed several years ago in accordance with DWP's records management practices and standard document retention times.
28. DWP stated that any sampling exercise would need to be designed to offer guidance to all ten policy areas themselves to reach out to their subgroups, and the operational teams to search through change programme documents, to retrieve, trawl through and determine which had relevant EqIAs and then check if these EqIAs were "commissioned"

by the Minister for Disabled People rather than simply provided as part of routine advice.

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

29. Having considered DWP's submissions, the Commissioner is not persuaded that a sampling exercise was not possible to perform. DWP has described complying with the request rather than obtaining a **sample** of the information to aid its estimate. The Commissioner considers that DWP could have asked a low number of policy area subgroups to search a low number of years for the information falling within the scope of the request to provide an estimate which could be used as evidence to be pro-rated to strengthen its arguments.
30. That being said, the Commissioner is persuaded that identifying the requested information would exceed the appropriate limit.
31. The Commissioner considers that the situation is more complex, and the work required by DWP is more involved, than the complainant believes. FOIA does not stipulate how public authorities should hold their information, it is up to DWP how it wishes to record the EqIAs to suit its business needs.
32. Given the large amount of information requested spanning 13 years, multiple policy areas and 12 ministers, the Commissioner accepts that identifying this information would exceed the appropriate limit.
33. The Commissioner therefore finds that DWP is entitled to rely on section 12(2) to refuse to confirm or deny whether it holds the requested information.

### **Section 16: Advice and assistance**

34. Section 16(1) of FOIA states:

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it"

35. The Commissioner notes that DWP advised the complainant to refine their request by policy area.
36. The Commissioner therefore considers that DWP has provided reasonable advice and assistance in accordance with section 16(1).

## Right of appeal

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37. 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)

38. 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.
39. 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**