

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 March 2023

Public Authority: Department for Work and Pensions

Address: Caxton House
Tothill Street
London
SW1H 9NA

Complainant: Andy Pennington

Address: 

Decision (including any steps ordered)

1. The complainant requested information from the Department for Work and Pensions ("the public authority"). The Commissioner's decision is that the public authority was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of FOIA. The Commissioner also finds that the public authority did not comply with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner requires the public authority to take the following steps:
 - Provide advice and assistance to the complainant to assist in submitting a request falling within the appropriate limit.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

4. On 18 July 2022, the complainant made the following request for information to the public authority:

"What is the current ratio of Decision Makers to Pension Credit Claimants nationally?"
5. The public authority refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

Section 12 – cost of compliance

6. This reasoning covers whether the public authority is correct to apply section 12(1) (cost limit) of FOIA to the request.¹ The appropriate limit² for the public authority in this case is £600.
7. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that the function of decision maker is not explicitly defined or specific to job type within the Pension Credit service so checking the duties of each applicable staff member would not be possible within the cost limit.
8. The public authority explained that the decision making process in the Pension Credit Service covers many aspects of the claims and live claims maintenance journey involving electronic and clerical intervention, and this would not solely be the final decision made by an officer with responsibility for determining benefit eligibility when a claim is made. Therefore, the process involved in determining what actions are deemed to be have been made by a 'decision maker' in relation to a Pension Credit claim would be significant and would inevitably result in this being at disproportionate cost to the public authority.
9. The public authority explained that it assumed that the complainant considered that a 'decision maker' would be an officer who makes the final benefit eligibility claim determination. However, decisions are

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

² <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

routinely made by a wide range of administrative officers and Team Leaders as part of their daily function who work on claims and maintenance teams, as well as those who process complex casework. In addition, some decisions are made electronically using government computer packages without any clerical intervention needed. There is not one role within the Pension Credit area when a member of staff is solely regarded as a 'decision maker' as their function would be to perform a wide range of duties. Therefore, to enable the public authority to answer this request, it stated would need to review each member of staff's responsibilities to identify whether this includes an element of decision making, as well as reviewing all computer based systems.

10. The public authority stated that, in order to provide a response to the request, it would need to set up a working group to look at all Pension Credit work instructions and computer based systems, as well as the roles performed by Pension Credit staff covering the claims, maintenance and complex casework teams. It would then need to determine whether a task is deemed to involve 'decision maker' action. The public authority stated that it was important to note that the multitude of Pension Credit work instructions does not clearly define what role would be considered to be those of a 'decision maker', as this level of detail is not required as part of our operational instructions.
11. The public authority estimated that it would need to check the duties of approximately 835 staff across its Pension Credit area. The Commissioner calculates that in order to collate this information, the public authority would need to obtain the required information from each staff member in an average of less than two minutes. The Commissioner is satisfied that this would not be possible within a cost of £600 or 24 hours (1440 minutes) of staff time and therefore complying with the request would exceed the appropriate limit at section 12. Furthermore, this estimate would not include any examination of computer systems or time taken to compile the requested information against the number of Pension Credit claimants.
12. The Commissioner is satisfied that the appropriate limit would be exceeded because it has explained that the role of decision maker is not clearly defined in its Pension Credit service area and therefore the requested information is not easily accessible.
13. The Commissioner's decision is that the public authority was correct to apply section 12(1) of FOIA to the request.

Section 16(1) – The duty to provide advice and assistance

14. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section

16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice³ in providing advice and assistance, it will have complied with section 16(1).

5. The Commissioner notes that the public authority advised the complainant that due to the specific nature of their request, it was unable to provide advice or assistance on how the request could be refined to fall within the cost limit. While this is a valid form of advice and assistance, the Commissioner also notes that the public authority assumed what the complainant meant by the term 'decision maker' and could have requested clarification. In this case, the Commissioner considers that the request could be refined or reworded and therefore there is further advice and assistance that could reasonably be provided.
6. The Commissioner is therefore satisfied that the public authority did not meet its obligations under section 16 of FOIA. The Commissioner requires the public authority to seek clarification from the complainant and provide further advice and assistance if appropriate, to assist with any new request.


Right of appeal

17. 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: 0300 1234504
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed 

~~Information Commissioner~~
~~Information Commissioner~~

Information Commissioner's Office
Wycliffe House
Water Lane
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Cheshire
SK9 5AF



Department
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DWP Central Freedom of
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Andy Pennington

[freedom-of-information-
request@dwp.gov.uk](mailto:freedom-of-information-request@dwp.gov.uk)

[DWP Website](https://www.dwp.gov.uk)

Our Ref: ~~IC-188203-T8J0~~
ICO Ref: IC-188203-T8J0

26 April 2023

Dear Mr Pennington

In accordance with the decision made by the Information Commissioner's Office (ICO) dated 24 March 2023, I'm writing to provide some additional information to support our responses dated 21 July 2022 and 12 August 2022 for FOI 55910 and IR 58160 respectively.

Decisions are routinely made by a wide range of Administrative Officers and Team Leaders as part of their daily function who work on claims and maintenance teams, as well as those who process complex casework. In addition, some decisions are made electronically using Government computer packages without any clerical intervention needed. There is not one role within the Pension Credit area when a member of staff is solely regarded as a 'decision maker' as their function would be to perform a wide range of duties.

To comply with Section 16 of the FOI Act and, to bring your request within the appropriate cost limit, you may wish to limit your request. We suggest that you might do this by refining or rewording your request to explain what you refer to by the term 'decision maker' as this covers a wide range of actions routinely undertaken by Departmental systems and clerical intervention, as noted in the explanation above.

The DWP will then be happy to consider your request afresh. However, we should advise that we cannot guarantee that any revised request will be within the cost limit.

If you have any queries about this letter, please contact us quoting the reference number above.

Yours sincerely

DWP Central Freedom of Information Team
Department for Work and Pensions

Your right to complain under the Freedom of Information Act

you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.
Website: [ICO FOI and EIR complaints](#) or telephone 0303 123 1113.