

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

### **Decision notice**

**Date:** 21 May 2019

**Public Authority:** The Department for Work and Pensions

**Address:** 4th Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA

#### **Decision (including any steps ordered)**

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1. The complainant has requested information regarding training undertaken by Universal Credit claimants. The Department for Work and Pensions (DWP) confirmed to the complainant that it did not hold the specific information requested.
2. The Commissioner's decision is that, on the balance of probabilities, DWP does not hold the requested information.
3. The Commissioner considers that DWP should have clarified what information the complainant was seeking under section 1(3) and has failed to provide adequate advice and assistance as required by section 16 of the Act.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Seek clarification from the complainant regarding which specific courses he is seeking information about.
5. 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 the Act and may be dealt with as a contempt of court.

## Request and response

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6. On 7 September 2018, the complainant wrote to DWP and requested information in the following terms:

*"Universal Credit forces all clients to do two mandatory training within the first week of their claim. I would like t [sic] know the names of the companies delivering these sessions and the amount they are contractually paid for undertaking these sessions. How long these contracts last and the bidding process involved."*

7. DWP responded on 2 October 2018 and stated:

*"Following a search of our paper and electronic records, I have been unable to identify any mandatory training undertaken by all claimants of Universal Credit within the first week of their claim. Therefore I can confirm that the information you requested is not held by this Department."*

8. The complainant requested an internal review on 2 October 2018, stating:

*"This response is a lie: people are forced o[sic] do mandatory training, because you have lied I have reported it to the ICO. I also want you to explain why I have been lid [sic] to. I still want the information I have asked for in the first place."*

9. On 31 October 2018, DWP provided the outcome of its internal review:

*"I am content that your original request was dealt with in accordance with DWP guidelines for FoI requests."*

*I can confirm that following a search of our paper and electronic records, I have been unable to identify any mandatory training undertaken by all claimants within the first week of their claim."*

## Scope of the case

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10. The complainant contacted the Commissioner on 1 November 2018 to complain about the way his request for information had been handled.

11. The Commissioner considers the scope of this investigation is to determine, on the balance of probabilities, whether information falling within the scope of the request is held. The Commissioner has also considered the interpretation of the request, and whether DWP ought to have provided advice and assistance to the complainant.

## Reasons for decision

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12. Section 1(1) of the Act 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 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 the Act to create new information in order to answer a request.
13. Where there is a dispute between the information located by a public authority and the information a complainant believes should be held, the Commissioner, follows the lead of a number of First-Tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
14. The Commissioner will consider the public authority's reasons for stating that it does not hold the information in question, as well as the extent and reasonableness of any search conducted. The Commissioner will also consider any arguments put forward by the complainant as to why the information is held (as opposed to why it ought to be held).

## Complainant's position

15. The complainant set out to the Commissioner that he was aware of claimants being "forced" to attend two training courses in order to avoid benefit sanctions. For this reason, he considers that the requested information is held.

## DWP's position

16. DWP explained that a search was conducted for information held on its intranet about mandatory training for Universal Credit claimants in the first week of their claim. Information about Labour Market regimes and conditionality is held on the intranet, therefore DWP considers that this is the appropriate route to identifying whether information is held.
17. DWP confirmed that in addition, an enquiry was sent to its Universal Credit Work and Labour Market Team to establish whether they could provide the information. Their reply confirmed that DWP does not require all Universal Credit claimants to attend mandatory training in the first week of their claim and that no details of companies delivering any training like this was held.
18. DWP set out that, as well as browsing the "Universal Learning" guidance, the following key words were searched for using the intranet search facility: "Universal Credit training"; "Universal Credit

mandatory"; "mandatory training"; "new claim"; "new claim mandatory".

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

19. The Commissioner has considered DWP's position and its submissions to her carefully. She has also considered the complainant's reasons for maintaining that the information is held. Having done so, she is satisfied that on the balance of probabilities DWP does not hold any information falling within the scope of the request.
20. She has reached this decision given that DWP has confirmed that Universal Credit training sessions are not mandatory for all claimants. Therefore DWP would not hold details of training courses that all claimants must attend within the first week of their claim. She also notes that DWP undertook searches to check that this position was correct.
21. The Commissioner has concerns that DWP did not explain to the complainant that training courses are not mandatory for all claimants as set out in his request, and instead stated that following searches no information was found. This may have further compounded the claimant's mistaken belief that information may be held when the information cannot exist and would not therefore be located by any search.

### **Section 1(3): Clarification of request**

22. Section 1(3) of the Act states:

*"Where a public authority—*

*(a) reasonably requires further information in order to identify and locate the information requested, and*

*(b) has informed the applicant of that requirement,*

*the authority is not obliged to comply with subsection (1) unless it is supplied with that further information."*

23. The Commissioner understands why the complainant would believe that the specific information requested is held given that he has personal experience and knowledge of the Universal Credit system.
24. The Commissioner asked DWP to set out what training courses Universal Credit claimants may be required to attend in order to access Universal Credit or avoid benefit sanctions.

25. DWP confirmed that whilst there are no training courses that all claimants must attend in the first week of their claim, there are some training courses which individual claimants may be required to attend dependent on their circumstances. DWP confirmed that non-participation in these courses may result in a sanction.
26. The Commissioner has issued guidance<sup>1</sup> which states that requesters cannot reasonably be expected to have a detailed knowledge of the way in which an authority organises and structures its records, or the terminology it uses to describe and classify information internally. Authorities must therefore make allowances for this when reading requests.
27. The Commissioner considers that the complainant's request, taken literally, was specific and clear as to what information he sought. However, the Commissioner considers that it is also clear that the wording of the request was based on a misunderstanding of the overall training requirements for Universal Credit claimants. The Commissioner is of the opinion that DWP ought to have addressed this misunderstanding and offered advice and assistance, rather than conduct searches that it knew would be futile.
28. The Commissioner considers that in the specific circumstances of this case, DWP should have returned to the complainant and request clarification of the specific courses to which he was referring.
29. The Commissioner therefore requires DWP to contact the complainant and request these clarifications in order to assist the complainant in focusing his request.

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1162/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf> paragraph 27

## Right of appeal

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30. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

31. 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.
32. 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**.....

**Sarah O’Cathain**  
**Senior Case Officer**

**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**