

Dear Mr Atrill,

I apologise for the delay in replying to your Freedom of Information request. You wrote:

In an interview with the Telegraph, on 24 Feb, Chris Grayling was quoted as saying:

'We won't and don't force anyone to take a work experience placement. Where we use mandation in our welfare policies, it will be to do useful work on community projects. We will never mandate anyone to work for a big company. They wouldn't take them if we did'
<http://www.telegraph.co.uk/comment/9091105/Critics-of-Government-work-experience-programme-are-jobs-snoobs-says-minister.html>

At the time Mr Grayling made this statement the document: Work Programme Provider Guidance, Chapter 3 – Mandation, Action Planning and Participant Contact/Work Experience for JSA Claimants 14, stated:

'Where you are providing support for JSA participants, which is work experience you must mandate participants to this activity. This is to avoid the National Minimum Wage Regulations, which will apply if JSA participants are not mandated.'

Following Mr Grayling's statement to the Telegraph the wording of this section of the guidance was removed from the document.

- 1. Under the terms of the FOI Act please supply an explanation of the reasons for this change along with all records you hold indicating why this change was made to the guidance. Please include all records of communications, electronic or otherwise, connected with this change including records of telephone conversations.*
- 2. In addition the version numbers on the documents are identical – v2.00 in both cases, could you please inform me whether it is normal practice when making amendments to a document to maintain the version in this way.*

In answer to your request:

1. As regards the first sentence of paragraph 1 of your request, please note that under the Freedom of Information Act 2000 (the FOI Act) the Department must respond to requests for recorded information, but is not required to create information for example to provide explanations such as that requested here.

As regards the second sentence, please see below the email trail relating to the decision to remove the section of guidance – the earliest email is at the bottom of the trail. Please note, under Departmental protocol, names of officials who are not members of the Senior Civil Service have not been included. Telephone numbers have also been removed.

In the original email, sent on 24 February at 15:41, a section of the email has been redacted, as it falls within the exemption in section 42 of the FOI Act which concerns legal professional privilege. One further email chain, consisting of 4 emails, also falls under section 42, and so has not been provided.

Section 42(1) of the FOI Act says “information in respect of which a claim to legal professional privilege ... could be maintained in legal proceedings is exempt information”.

Legal professional privilege is an important principle which exists to ensure people are confident that they can be completely frank and candid with their legal adviser when obtaining legal advice, without fear of disclosure.

The section 42 exemption is qualified, meaning that it is subject to a public interest test. However, I am satisfied that, in all the circumstances of the case, the public interest in maintaining the section 42 exemption in respect of this legal advice clearly outweighs any public interest in disclosing it. The advice concerned was given only recently and is still being relied on. To disclose legal advice where litigation on the relevant issues is or may be in prospect would be unfair. The legal advice would reveal the basis of the Department’s case, while a private opponent not subject to the FOI Act would not have to reveal their position.

2. As mentioned above, the FOI Act does not require the Department to provide explanations such as that requested in your paragraph 2. However, in this case I can confirm that the Department does not set out standard practice for the naming of documents.

Emails

-----Original Message-----

From: [REDACTED]
Sent: 24 February 2012 16:17
To: [REDACTED]; Walsh Iain STRATEGY LABOUR MARKET
Cc: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Subject: RE: Work Programme provider guidance

All,

Please be advised that the amended guidance to remove what was paragraph 14 and associated heading regarding work experience for JSA claimants has now been completed and the change is now live at:

<http://www.dwp.gov.uk/supplying-dwp/what-we-buy/welfare-to-work-services/provider-guidance/work-programme-provider.shtml>

If you don't see the revised version – you might need to refresh the page in your browser before you click on the link to the PDF document.

[REDACTED], I look forward to working with you next week on the replacement when you have something to share with me.

Have a good weekend everybody.

Kind regards,

[REDACTED]
Department for Work and Pensions | Communications Directorate | Digital Media Team | Room M1001 Durham House | Washington | Tyne & Wear | NE38 7SF | [REDACTED] |
<http://www.dwp.gov.uk/>

-----Original Message-----

From: [REDACTED]
Sent: 24 February 2012 16:02
To: Walsh Iain STRATEGY LABOUR MARKET; [REDACTED]
Cc: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Subject: RE: Work Programme provider guidance

[REDACTED]
Please confirm action (to all mentioned in email) and when it should appear changed

Email below confirms conversation regarding removal of para 14....and as discussed - you are not aware that this change will be flagged up on the internet i.e. we would have to flag this up via other methods e.g. a memo

A replacement (see below) will be on its way next week....

Ok - have a good weekend!

Thanks

[REDACTED]
Work Programme Division/Department for Work and Pensions / Contracted Customer Services Directorate / Rockingham House / West Street/ Sheffield/ S1 4ER / [REDACTED]
www.dwp.gov.uk

-----Original Message-----

From: Walsh Iain STRATEGY LABOUR MARKET

Sent: 24 February 2012 15:52

To: [REDACTED]

Cc: [REDACTED]; Crane John PROFESSIONAL SERVICES ADELPHI; [REDACTED]

Subject: FW: Work Programme provider guidance

Importance: High

[REDACTED] - as discussed, grateful if you could omit this bit of the guidance. We'll replace as soon we can. Thanks.

Iain

-----Original Message-----

From: [REDACTED]

Sent: 24 February 2012 15:41

To: Walsh Iain STRATEGY LABOUR MARKET

Subject: Work Programme provider guidance

Hi [REDACTED],

As discussed, please arrange for paragraph 14 of chapter 3 of the Work Programme provider guidance to be removed as soon as possible.

[REDACTED]

Work Experience for JSA Claimants

Where you are providing support for JSA participants, which is work experience you must mandate participants to this activity. This is to avoid the National Minimum Wage Regulations, which will apply if JSA participants are not mandated.

Thanks,

[REDACTED]
Labour Market Interventions Strategy Division | Department for Work and Pensions | Caxton House | Level 2 | Tothill Street | SW1H 9NA | [REDACTED]

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

Yours sincerely,

DWP Central FoI Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwpgsi.gov.uk or by writing to DWP, Central Fol Team, 5th Floor The Adelphi, 1-11, John Adam Street, London WC2N 6HT. Any review request should be submitted within two months of the date of this letter.

If 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 www.ico.gov.uk