

29 March 2016

Dear John Slater,

Thank you for your Freedom of Information request received on 22 September 2015 which we answered on 19 October 2015. Following your complaint to the Information Commissioner's Office we have looked at your request again and have revised our response as follows:

In your request you said:

"Since October 2013 ESA Reconsiderations have been mandatory before a claimant can lodge an appeal with the Tribunal.

In its response FOI IR387 of 14 August 2014 the DWP stated that it was "gathering the list of information published on 29th May 2013 as part of the operational delivery of Mandatory Reconsiderations (MR) for all benefits. This will include ESA."

The "list of information" referred to is data related to the operation of Mandatory Reconsideration ("MR").

The DWP has received a number of requests to publish the data it holds about the operation of MR and it has consistently claimed the S.22 exemption "Information intended for future publication".

Given that the DWP started collecting MR data in 2013 it means that it has been intending to publish said data for nearly 2 years. A reasonable person might suspect that the DWP is using S.22 as an excuse to avoid disclosing the MR data and that would be an abuse of the exemption.

RFI1: Please disclose the data that the DWP has been collection for ESA mandatory reconsiderations since October 2013.

If the DWP still intends to engage S.22 please:

RFI2.1: provide an approximate date when it intends to publish the data (e.g. 4th quarter 2015).

RFI2.2: confirm that it has settled on the data it intends to publish (i.e. decided which data will be disclosed, redacted or withheld).

RFI2.3: as S.22 is a qualified exemption, please provide the public interest that it carried out when considering the engagement of S.22 to show that it is reasonable, in all the circumstances, to withhold the information prior to publication. This should include the fact that the DWP has been collecting said data since 2013."

As you have requested data since October 2013 we have assumed that you require the information up to the date of your request which in this case is 22 September 2015, therefore all the data collected from 28 October 2013 to 22 September 2015. We can confirm that although we hold information the data for this precise time period will not be published.

Data on mandatory reconsiderations (MRs) is recorded and held on the Decision Making and Appeals Recording System (DMACR). This is a live operational computer system which records and retains MR information for 14 months following the date of the decision. DWP statisticians started to extract and store data on MR decisions from the DMACR system in October 2014, initially on an ad-hoc basis and then monthly from June 2015. This means to produce the data from 1 to 22 September 2015 would require the use of new bespoke extract from the DMACR system.

The data from October 2014 was used to provide the ad-hoc publication produced in December 14 to show some early experimental statistics on MRs for ESA.

<https://www.gov.uk/government/statistics/mandatory-reconsiderations-of-dwp-benefit-decisions-data-to-october-2014>

However, DWP statisticians have experienced difficulties with using the data taken from DMACR as it contains more information than just MRs. To ensure the correct information is provided this has meant extensive investigations and further validation has been required.

We can confirm that we hold some of the information falling within the description specified in this request. However, due to the considerable additional work needed to ensure that the collected data is correct and giving only the information for MRs and also to provide data for the time period in your request, we estimate that the cost of complying with your request would exceed the appropriate limit for central Government, set by regulations at £600. This represents the estimated cost of one person spending 3½ working days in determining whether the Department holds the information, and locating, retrieving and extracting it. (See Annex A for further details)

Under section 12 of the Freedom of Information Act (FOI) the Department is not therefore obliged to comply with the request and we will not be processing it further.

Under section 16 of the Act we should assist the requester in helping narrow their request so that it may fall beneath the cost limit. In this case you may wish to limit your request to ask for Mandatory Reconsiderations of ESA **sanction decisions** made to the end of the September 2015. The compilation of these MRs use a slightly different methodology and so do not have the same issues as described above.

Should you narrow your request in this way then we would point out that this information is exempt under section 21 of the FOIA which allows us to direct you to information which is already reasonably accessible to you.

The Department publishes Official Statistics on Employment and Support Allowance sanction decisions and information on these statistics can be found here:

<https://www.gov.uk/government/collections/jobseekers-allowance-sanctions>

The latest set of Official Statistics was released on 17 February 2016 and covers sanction decisions made to September 2015 and a summary of this data can be found here:
<https://www.gov.uk/government/statistics/jobseekers-allowance-and-employment-and-support-allowance-sanctions-decisions-made-to-september-2015>

These statistics contain a wide set of geographical areas, sanction reason, sanction outcomes, including reviews, mandatory reconsiderations and appeals and can be extracted from Stat-Xplore: <https://stat-xplore.dwp.gov.uk/>

Guidance on how to extract the information required from Stat-Xplore can be found at:
<https://sw.stat-xplore.dwp.gov.uk/webapi/online-help/Getting-Started---SuperWEB2.html>
If you have any difficulties extracting the relevant information please let us know.

Please note once the reconciliatory work has been completed we aim to publish MRs for the whole ESA Work Capability Assessment process as soon as we can and will pre-announce the publication date here:
<https://www.gov.uk/government/statistics/announcements>

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

Yours sincerely,

DWP Central Fol 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@dwp.gsi.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. 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

Annex A

The following table gives the details of the time it would take to provide the information:

| Task | Days |
|--|------------|
| Read relevant documentation and consult ESA policy and operational experts to ensure we are capturing relevant data relating to all ESA decisions | 1.0 |
| Write and check necessary code to extract cases from DWP monthly datasets which relate to all ESA MR decisions. | 0.5 |
| Read relevant documentation and consult DMACR data experts and IT security experts to find out exact dates and further details of the data retention policy and consider the implications of such | 1.5 |
| Identify and ensure we have extracted all the relevant data from DMACR which we will need to provide a full historic data series from 28 to October 2013 to 22 September 2015 | 1.0 |
| Estimate how many decisions are incorrect or missing and develop methodology to provide suitable estimates or adjustments if necessary. This is an iterative process so can take additional time. | 0.5 |
| Write necessary code to extract cases from all datasets identified. This is an iterative process so can take additional time. | 1.0 |
| Perform data merge with at least 13 different datasets to capture all cases and ensure duplicate cases are removed. | 0.5 |
| Total number of days | 6.0 |