

DWP Central Freedom of Information Team
e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our ref: FOI213/IR52
ICO ref: FS50729066

Date: 27 June 2018

Dear Mr Williams,

Following your complaint to the Information Commissioner the Commissioner has contacted the Department and asked that we re-consider our response to you. We have done so and our response is set out below.

On 16 January 2018 you asked:

Please provide details of how many letters before action under the pre action protocol for judicial review relating to issues about the administration, payment or entitlement to benefits were received by DWP solicitors for each of the years from 2010 onwards (tax years or calendar years - whichever is easier

DWP Response

The Department is withdrawing its reliance on section 32.

The Department holds some information relevant to your query.

We estimate that the cost of complying with this request will exceed the appropriate limit. The appropriate limit has been specified in regulations and for central government is set at £600. This represents the estimated cost of one person spending 3.5 working days in determining whether the Department holds the information. Under section 12 of the Freedom of Information Act 2000 the Department is not obliged to comply with your request and we will not be processing your request further.

It may help if we explain that DWP Legal Advisors (DWPLA) do not maintain a central record of any letters before action received by the Department. As a result, in order to identify the information requested DWPLA would be required to search:

- Every individual lawyer's email account (both for current employees and employees who left DWPLA within the last 8 years where the account had not been deleted before the request was originally received);
- Every individual lawyer's electronically saved files (both for current employees and employees who left DWPLA within the last 8 years where the account had not been deleted before the request was originally received);
- Every individual lawyer's electronic archive (both for current employees and employees who left DWPLA within the last 8 years where the account had not been deleted before the request was originally received);

- Every DWPLA teams shared folders;
- Every DWPLA teams electronic archives;
- Every individual lawyer's paper files (both for current employees and employees who left DWPLA within the last 8 years where the files have not been destroyed);
- Every individual lawyers archived paper files (both for current employees and employees who left DWPLA within the last 8 years where the files have not been destroyed);
- Every DWPLA teams paper files; and
- Every DWPLA teams archived paper files;

The Department would then, having identified any information held, have to retrieve and extract the information required.

For the staff currently in post this would allow only 20 minutes per person to search their individual records. This time would be further diminished by the need to search for information that may have been held by former employees or in team storage, shared files and archives.

We have considered whether we can suggest to you ways in which you could narrow your request to bring it within the cost limit. However, in this case the Department does not consider that this is possible. Reducing the period covered by the request would not significantly reduce the work involved because it would still be necessary for DWPLA to carry out most, if not all, of the activities listed above.

DWPLA does have access to Management Information Quantitative Data Returns which detail the total number of claims brought against DWP. DWPLA holds this data for 2017 and may also hold this data for earlier years, although it is not thought the data goes back so far as 2010. However, this information simply lists the total number of new claims as well as letters before action received by DWP each year and it does not distinguish between new claims and letters before action. Nor does the information record what the claims or letters are in relation to. As a result, this information may not be sufficient so as to be of use to you.

Yours sincerely,

DWP Operations
Freedom of Information 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 FoI Team, Caxton House, Tothill Street, London, 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